Rules and Regulations of the State of Georgia

Department 590 RULES OF OFFICE OF SECRETARY OF STATE

Current through Rules and Regulations filed through April 4, 2023

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Rule 590-7-19-.06. Fees, Penalties, and Charges.
Rule 590-7-19-.07. Dishonored Payments.
Rule 590-7-19-.08. Refunds.
Rule 590-7-19-.09. Expedited Processing.
Rule 590-7-19-.10. Compliance with Filing Requirements.
Rule 590-7-19-.11. Registered Office and Registered Agent.
Subject 590-7-20. LIMITED LIABILITY COMPANIES - NAME.
Rule 590-7-20-.01. Name.
Rule 590-7-20-.02. Method of Reserving a Name.
Rule 590-7-20-.03. Issuance of Name Reservation Certificate.
Rule 590-7-20-.04. Distinguishable Names.
Rule 590-7-20-.05. Contested Cases.
Rule 590-7-20-.06. Restricted Names.
Rule 590-7-20-.07. Foreign/Domestic Limited Liability Companies Distinguished.
Rule 590-7-20-.08. Domestic Limited Liability Companies Distinguished.
Subject 590-7-21. LIMITED LIABILITY COMPANIES - FILING OF DOCUMENTS.
Rule 590-7-21-.01. Filing of Documents.
Rule 590-7-21-.02. Transmittal Information Form.
Rule 590-7-21-.03. Additional Information.
Rule 590-7-21-.04. Returned Documents.
Rule 590-7-21-.05. Amendments and Other Subsequent Filings.
Rule 590-7-21-.06. Operating Agreement.
Rule 590-7-21-.07. Foreign Limited Liability Companies.
Rule 590-7-21-.08. Preclearance.
Subject 590-7-22. LIMITED LIABILITY COMPANIES - ANNUAL REGISTRATIONS.

Rule 590-7-22-.01. Annual Registration Processing.
Rule 590-7-22-.02. New Registration Filings.
Rule 590-7-22-.03. Annual Registration Filings.
Rule 590-7-22-.04. Depository.
Rule 590-7-22-.05. Annual Registration Notifications.
Rule 590-7-22-.06. Annual Registration Updating.
Rule 590-7-22-.07. Retention of Annual Registration.
Rule 590-7-22-.08. Failure to File Annual Registration.
Rule 590-7-22-.09. Extensions of Filing Time.
Rule 590-7-22-.10. Valid Period of Annual Registration.
Subject 590-7-23. LIMITED LIABILITY COMPANIES - TERMINATIONS, DISSOLUTIONS, REVOCATIONS, AND WITHDRAWALS.
Rule 590-7-23-.01. Compliance with Filing Requirements.
Rule 590-7-23-.02. Domestic Limited Liability Companies.
Rule 590-7-23-.03. Foreign Limited Liability Companies.
Subject 590-7-24. LIMITED LIABILITY COMPANIES - CERTIFICATION OF DOCUMENTS.
Rule 590-7-24-.01. Certificates, Copies, and Certified Copies.
Rule 590-7-24-.02. Requests for Information.
Rule 590-7-24-.03. Forms of Certificates.
Rule 590-7-24-.04. Certificate of Entity History (Long Form Certificate).
Subject 590-7-25. LIMITED LIABILITY COMPANIES - SERVICE OF PROCESS.
Rule 590-7-25-.01. Designated Agents.
Rule 590-7-25-.02. Receipt of Service.
Rule 590-7-25-.03. Processing.
Rule 590-7-25-.04. Returned Documents.
Rule 590-7-25-.05. Fees.
Subject 590-7-26. LIMITED LIABILITY COMPANIES - INFORMATION CENTER.
Rule 590-7-26-.01. Information Center.
Rule 590-7-26-.02. Telephone Inquiries.
Rule 590-7-26-.03. Legal Interpretations.
Subject 590-7-27. LIMITED LIABILITY COMPANIES - AUTOMATED DATA PROCESSING SYSTEM.
Rule 590-7-27-.01. Authority.
Rule 590-7-27-.02. Records.
Rule 590-7-27-.03. Public Access.
Rule 590-7-27-.04. Electronic Filings.
Rule 590-7-27-.05. Service Charges.
Subject 590-7-28. CABLE/VIDEO STATE FRANCHISE.

Rule 590-7-28-.01. Definitions.
Rule 590-7-28-.02. Renewal of State Franchise.
Subject 590-7-29. STRUCTURED SETTLEMENT PURCHASE COMPANIES.
Rule 590-7-29-.01. Definitions.
Rule 590-7-29-.02. Fees, Charges, and Penalties.
Rule 590-7-29-.03. Dishonored Payments.
Rule 590-7-29-.04. Filing of Documents.
Rule 590-7-29-.05. Returned Documents.
Rule 590-7-29-.06. Renewal of Structured Settlement Purchase Company Registration.
Chapter 590-8. ELECTIONS DIVISION.
Subject 590-8-1. CERTIFICATION OF VOTING SYSTEMS.
Rule 590-8-1-.01. Certification of Voting Systems.
Rule 590-8-1-.02. Verification of Voter Registration Information.
Subject 590-8-2. HELP AMERICA VOTE ACT OF 2002 PROVISIONS.
Rule 590-8-2-.01. Administrative Complaint Procedure for Violations of Title III of the Help America Vote Act of 2002.
Subject 590-8-3. SECURITY OF VOTER REGISTRATION SYSTEM.
Rule 590-8-3-.01. Standards for Security of Voter Registration System.
Chapter 590-9. CHARITABLE SOLICITATION.
Subject 590-9-1. RULES OF GENERAL APPLICABILITY.
Rule 590-9-1-.01. Definitions.
Rule 590-9-1-.02. Delegation to Division Director.
Rule 590-9-1-.03. Administrative Declaratory Rulings; No-Action Letters; Informal Interpretations.
Rule 590-9-1-.04. Petition for Adoption of Rules.
Rule 590-9-1-.05. Contested Cases.
Rule 590-9-1-.06. Records.
Rule 590-9-1-.07. Confidentiality of Investigations.
Rule 590-9-1-.08. Non-payment of Statutory Fees or Administrative Penalties.
Rule 590-9-1-.09. Repealed.
Subject 590-9-2. PAID SOLICITORS.
Rule 590-9-2-.01. Prerequisites for Registration.
Rule 590-9-2-.02. Amendments to Registration.
Rule 590-9-2-.03. Records of Paid Solicitors.
Rule 590-9-2-.04. Renewal Applications.
Rule 590-9-2-.05. Determination of Filing Date; Abandonment of Application.
Rule 590-9-2-.06. Reporting of Occurrences.
Rule 590-9-2-.07. Supervision of Employees.

Rule 590-9-2-.08. Repealed.
Rule 590-9-2-.09. Repealed.
Subject 590-9-3. SOLICITOR AGENTS.
Rule 590-9-3-.01. Prerequisites for Registration.
Rule 590-9-3-.02. Amendments to Registration.
Rule 590-9-3-.03. Repealed.
Rule 590-9-3-.04. Repealed.
Rule 590-9-3-.05. Repealed.
Rule 590-9-3-.06. Repealed.
Rule 590-9-3-.07. Repealed.
Subject 590-9-4. REGISTRATION OF CHARITABLE ORGANIZATIONS.
Rule 590-9-4-.01. Prerequisites for Registration.
Rule 590-9-4-.02. Amendments to Registration.
Rule 590-9-4-.03. Records to Be Made and Maintained by Charitable Organizations.
Rule 590-9-4-.04. Charitable Organizations Renewal.
Rule 590-9-4-.05. Determination of Filing Date; Abandonment of Applications.
Rule 590-9-4-.06. Financial Statement.
Rule 590-9-4-.07. Forms for Charitable Organization Registration.
Subject 590-9-5. PROHIBITED ACTS.
Rule 590-9-5-.01. Untrue and Misleading Statements Prohibited; Misrepresentations and Omissions Prohibited.
Rule 590-9-5-.02. Repealed.
Rule 590-9-5-.03. Repealed.
Rule 590-9-5-.04. Repealed.
Rule 590-9-5-.05. Repealed.
Rule 590-9-5-.06. Repealed.
Rule 590-9-5-.07. Repealed.
Rule 590-9-5-.08. Repealed.
Subject 590-9-6. EXEMPTIONS FROM REGISTRATION.
Rule 590-9-6-.01. Multi-Level Organizations.
Rule 590-9-6-.02. Reserved.
Rule 590-9-6-.03. Organizations Associated With Governmental Entities.
Rule 590-9-6-.04. Publisher's Exemption.
Rule 590-9-6-.05. Applicability of Anti-Fraud Provisions.
Subject 590-9-7. CERTIFICATION OF DOCUMENTS.
Rule 590-9-7-.01. Certificates.
Rule 590-9-7-.02. Requets for Information.
Rule 590-9-7-.03. Payment of Charges.

Rule 590-9-7-.04. Forms of Certificates.
Chapter 590-10. REPEALED.
Subject 590-10-2. REPEALED.
Rule 590-10-2-.01. Repealed.
Rule 590-10-2-.02. Repealed.
Rule 590-10-2-.03. Repealed.
Rule 590-10-2-.04. Repealed.
Rule 590-10-2-.05. Repealed.
Rule 590-10-2-.06. Repealed.
Rule 590-10-2-.07. Repealed.
Subject 590-10-3. REPEALED.
Rule 590-10-3-.01. Repealed.
Rule 590-10-3-.02. Repealed.
Rule 590-10-3-.03. Repealed.
Chapter 590-11. MUSIC THERAPY.
Subject 590-11-1. MUSIC THERAPY.
Rule 590-11-1-.01. Application for Licensure.
Rule 590-11-1-.02. Licensure Renewal.
Rule 590-11-1-.03. Restoration of Licensure.
Rule 590-11-1-.04. Inactive Status.
Rule 590-11-1-.05. Continuing Education.
Chapter 590-12. Lactation Consultants.
Subject 590-12-1. LACTATION CONSULTANTS.
Rule 590-12-1-.01. Application for Licensure.
Rule 590-12-1-.02. Licensure Renewal.
Rule 590-12-1-.03. Inactive Status.

ADMINISTRATIVE HISTORY

The Administrative History following each Rule gives the date on which the Rule was originally filed and its effective date, as well as the date on which any amendment or repeal was filed and its effective date. Principal abbreviations used in the Administrative History are as follows:

f. - filed

eff. - effective

R. - Rule (Abbreviated only at the beginning of the control number)

ER. - Emergency Rule

Rev. - Revised

Note: Emergency Rules are listed in each Rule's Administrative History by Emergency Rule number, date filed and effective date. The Emergency Rule will be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency.

Chapter 590-2 entitled "Georgia Administrative Procedure Act Division", 590-3 entitled "Building and Loan Associations" have been adopted. Filed and effective June 30, 1965.

Chapter 590-4-1 entitled "Registrations: Interstate and Intrastate", 590-4-2 entitled "Registrations: Intrastate Only" have been adopted. Filed and effective July 19, 1965.

Rules 590-2-.01 to .05 have been repealed and new Rules adopted. Filed November 1, 1965; effective November 20, 1965.

Chapter 590-1 entitled "Organization" has been adopted. Rules 590-2-.01 to .05 have been repealed and new Rules adopted. Filed June 29, 1966; effective July 18, 1966.

Emergency Rule 590-4-1-0.1-.05 adopted. Filed and effective December 30, 1966, the date of adoption, to be in effect for 120 days or until the effective date of a Permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule relating to registration of salesmen was adopted for the welfare and protection of the public. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Rule 590-4-1-.04 has been amended superseding Emergency Rule 590-4-1-0.1-.04. Filed January 30, 1967; effective February 18, 1967.

Rule 590-3-.13 has been adopted. Filed February 20, 1967; effective March 11, 1967.

Emergency Rule 590-4-2-0.2-.07 adopted. Filed and effective on March 20, 1968, the date of adoption, to be in effect for 120 days or until the effective date of a Permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule relating to Pictures or Diagrams in the Prospectus was adopted for the welfare and protection of the public. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Rule 590-4-2-.07 has been amended superseding Emergency Rule 590-4-2-0.2-.07. Filed April 23, 1968; effective May 12, 1968.

Emergency Rule 590-4-1-.0.3-.05 adopted. Filed and effective on June 22, 1970, the date of adoption, to be in effect for 120 days or until the effective date of a Permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule is adopted to comply with the Georgia Securities Act of 1957, as amended. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Rule 590-4-1-.05 has been adopted superseding Emergency Rule 590-4-1-0.3-.05. Filed July 29, 1970; effective August 18, 1970.

Rule 590-3-.12 has been repealed and a new Rule adopted. Filed December 30, 1971; effective January 19, 1972.

Rule 590-4-1-.04 has been amended. Filed August 16, 1972; effective September 5, 1972.

By virtue of the Executive Reorganization Act of 1972, the functions of Chapter 590-3, "Building and Loan Associations," have been transferred to the Department of Banking and Finance and henceforth will function under that Department. Filed July 5, 1973; effective July 25, 1973.

Emergency Rule 590-4-1-0.4-.01, .02 has been adopted. Emergency Rule 590-4-2-0.5-.01, .02, .03 has been adopted. Emergency Rule 590-4-3-0.6-.01, .02, .03, .04 has been adopted. Filed and effective on April 1, 1974, the date of adoption, to remain in effect for 120 days or until the effective date of Permanent Rules covering the same subject matter superseding these Emergency Rules are adopted, as specified by the Agency. These Rules were adopted in order to comply with the Georgia Securities Act of 1973 which supersedes the Georgia Securities Act of 1957. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rule 590-5-0.7-.01 has been adopted. Filed and effective on June 26, 1974, the date of adoption, to remain in effect for 120 days or until the effective date of a Permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted in order to comply with the Georgia Campaign Financing Disclosure Act, Georgia Law 1974, page 155. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Chapter 590-4-1 entitled "Rule of General Applicability" has been adopted superseding Emergency Rule 590-4-1-0.4. Chapter 590-4-2 entitled "Dealers, Limited Dealers, Salesmen and Limited Salesmen of Securities" has been adopted superseding Emergency Rule 590-4-2-0.5. Chapter 590-4-3 entitled "Registered Securities" has been adopted superseding Emergency Rule 590-4-3-0.6. Chapter 590-4-4 entitled "Prohibited Acts" has been adopted. Filed July 5, 1974; effective July 25, 1974.

Emergency Rule 590-5-0.7-.01 expired on October 23, 1974.

Chapter 590-5 entitled "Campaign Financing Disclosure Act Division" has been adopted. Filed November 14, 1974; effective December 4, 1974.

Chapter 590-1 has been repealed and a new Chapter adopted. Filed December 29, 1978; effective January 18, 1979.

Chapter 590-2 has been repealed and a new Chapter adopted. Filed December 29, 1978; effective January 18, 1979.

Chapter 590-5 has been amended by changing the title to "Campaign Financial Disclosure Division." Rule 590-5-.01 has been amended by adding the "Ga. L. 1975, p. 1120, et seq." to the Authority for said Rule. Filed December 29, 1978; effective January 18, 1979.

Rules 590-4-1-.01, 590-4-1-.02, 590-4-1-.03, and 590-4-1-.04 have been renumbered as 590-4-1-.02, 590-4-1-.03, 590-4-1-.04, and 590-4-1-.05, respectively, and new Rules 590-4-1-.01 and 590-4-1-.06 have been adopted. Filed December 9, 1980; effective December 29, 1980.

Rule 590-4-2-.01 has been amended. Filed December 9, 1980; effective December 29, 1980.

Rule 590-4-2-.06 has been repealed; Rules 590-4-2-.02, 590-4-2-.03, 590-4-2-.04, and 590-4-2-.05 have been renumbered as 590-4-2-.03, 590-4-2-.04, 590-4-2-.05, and 590-4-2-.06, respectively, and a new Rule 590-4-2-.02 has been adopted. Filed December 9, 1980; effective December 29, 1980.

Rules 590-4-2-.07, 590-4-2-.08, 590-4-2-.09, 590-4-2-.10 and 590-4-2-.11 have been adopted. Filed December 9, 1980; effective December 29, 1980.

Rule 590-4-3-.02 has been repealed; Rules 590-4-3-.03, 590-4-3-.04, 590-4-3-.05, and 590-4-3-.06 have been renumbered as 590-4-3-.02, 590-4-3-.03, 590-4-3-.04, and 590-4-3-.05, respectively, and a new Rule 590-4-3-.06 adopted; paragraph (1) of Rule 590-4-3-.04 has been repealed and a new paragraph (1) adopted. Filed December 9, 1980; effective December 29, 1980.

Chapter 590-1, entitled "Organization," has been renumbered as 590-1-1. Filed March 30, 1981; effective April 19, 1981.

Rules 590-1-.01, 590-1-.02, and 590-1-.03 have been repealed and new Rules 590-1-1-.01, 590-1-1-.02, and 590-1-1-.03 adopted. Filed March 30, 1981; effective April 19, 1981.

Rule 590-1-.04 has been renumbered as 590-1-1-.04. Filed March 30, 1981; effective April 19, 1981.

Chapter 590-5 has been amended by changing the title from "Campaign Financial Disclosure Division" to "Rules of General Applicability," and has been renumbered as 590-5-1, and Rule 590-5-.01 therein has been renumbered as 590-5-1-.01. Filed March 30, 1981; effective April 19, 1981.

Chapter 590-2 has been amended by changing the title from "Administrative Procedure Division" to "Rules of General Applicability," and has been renumbered as 590-2-1. Filed April 10, 1981; effective April 30, 1981.

Rules 590-2-1-.01, 590-2-1-.02 and 590-2-1-.04 have been repealed and new Rules of the same numbers adopted. Filed April 10, 1981; effective April 30, 1981.

Rule 590-2-.03 has been renumbered as 590-2-1-.03. Filed April 10, 1981; effective April 30, 1981.

Rule 590-2-.05 has been repealed. Filed April 10, 1981; effective April 30, 1981.

Chapter 590-2-2, entitled "Emergency Rules," containing Rule 590-2-2-.01, has been adopted. Filed April 10, 1981; effective April 30, 1981.

Chapter 590-4-5, entitled "Securities Exemptions," containing Rule 590-4-5-.01, has been adopted. Filed August 16, 1982; effective November 1, 1982, as specified by the Agency.

Chapter 590-4-6, entitled "Land Sales Exemptions." containing Rule 590-4-6-.01, has been adopted. Filed September 30, 1982; effective November 1, 1982, as specified by the Agency.

Rules 590-4-1-.01, 590-4-1-.02, 590-4-1-.03, 590-4-1-.05, and 590-4-1-.06 have been repealed and new Rules of the same numbers adopted. Filed April 13, 1983; effective May 3, 1983.

Rule 590-4-1-.07 has been adopted. Filed April 13, 1983; effective May 3, 1983.

Rules 590-4-2-.01, 590-4-2-.02, 590-4-2-.04, 590-4-2-.05, 590-4-2-.06, 590-4-2-.07, 590-4-2-.08, 590-4-2-.09, 590-4-2-.10, and 590-4-2-.11 have been repealed and new Rules of the same numbers adopted. Filed April 13, 1983; effective May 3, 1983.

Rule 590-4-2-.03 has been amended by the repeal of paragraph (9) and by the adoption of a new paragraph (9). Filed April 13, 1983; effective May 3, 1983.

Rule 590-4-2-.12 has been adopted. Filed April 13, 1983; effective May 3, 1983.

Rules 590-4-3-.01, 590-4-3-.02, 590-4-3-.03, 590-4-3-.04, 590-4-3-.05 and 590-4-3-.06 have been repealed and new Rules of the same numbers adopted. Filed April 13, 1983; effective May 3, 1983.

Rule 590-4-3-.07 has been adopted. Filed April 13, 1983; effective May 3, 1983.

Rule 590-4-4-.02 has been repealed and a new Rule 590-4-4-.02 adopted. Filed April 13, 1983; effective May 3, 1983.

Rule 590-4-4-.03 has been adopted. Filed April 13, 1983; effective May 3, 1983.

Emergency Rule 590-3-1-0.8, entitled "Rules of General Applicability," containing Rules 590-3-1-0.8-.01 through 590-3-1-0.8-.13, was filed on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding this Emergency Rule, as specified by the Agency. this Emergency Rule relates to rules governing cemeteries. (Said Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule 590-3-2-0.9, entitled "Salespersons," containing Rules 590-3-2-0.9-.01 through 590-3-2-0.9-.03, was filed on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding this Emergency Rule, as specified by the Agency. This Emergency Rule relates to rules for cemeteries. (Said Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule 590-3-3-0.10, entitled "Perpetual Care Cemeteries," containing Rules 590-3-3-0.10-.01 through 590-3-3-0.10-.09, was filed on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding this Emergency Rule, as specified by the Agency. (Said Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule 590-3-4-0.11, entitled "Preneed Dealers," containing Rules 590-3-4-0.11-.01 through 590-3-4-0.11-.05, was filed on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding this Emergency Rule as specified by the Agency. This Emergency Rule relates to cemeteries. (Said Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule 590-3-1-0.8 (except 590-3-1-0.8-.09) has been repealed and a new Chapter 590-3-1, entitled "Rules of General Applicability," containing Rules 590-3-1-.01 through 590-3-1-.08 and Rules 590-3-1-.10 through 590-3-1-.15, adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.

Emergency Rule 590-3-2-0.9 has been repealed and a new Chapter 590-3-2, entitled "Salespersons," containing Rules 590-3-2-.01 through 590-3-2-.03, adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.

Emergency Rule 590-3-3-0.10 has been repealed and a new Chapter 590-3-3, entitled "Perpetual Care Cemeteries," containing Rules 590-3-3-.01 through 590-3-3-.09, adopted. Filed September 9, 1983: effective October 5, 1983, as specified by the Agency.

Emergency Rule 590-3-4-0.11 has been repealed and a new Chapter 590-3-4, entitled "Preneed Dealers," containing Rules 590-3-4-.01 through 590-3-4-.04, adopted. Filed September 9, 1983; effective November 13, 1983, as specified by the Agency.

Emergency Rule 590-3-1-0.8-.09 expired on October 28, 1983.

Rule 590-3-1-.09 has been adopted. Filed October 24, 1983; effective November 13, 1983.

Rule 590-3-1-.15 has been repealed and a new Rule 590-3-1-.15 adopted. Filed October 24, 1983; effective November 13, 1983.

Rules 590-3-2-.04 and 590-3-2-.05 have been adopted. Filed October 24, 1983; effective November 13, 1983.

Rule 590-4-1-.06 has been amended by the repeal of paragraph (3) and by the adoption of a new paragraph (3). Filed January 16, 1984; effective February 5, 1984.

Rule 590-4-2-.01 has been amended by the repeal of subparagraph (1)(b) and paragraph (4) and by the adoption of a new subparagraph (1)(b) and a new paragraph (4). Filed January 16, 1984; effective February 5, 1984.

Rule 590-4-2-.02 has been amended by the adoption of a new title; it has been further amended by the repeal of paragraphs (2) and (3), and by the adoption of new paragraphs (2) and (3). Filed January 16, 1984; effective February 5, 1984.

Rule 590-4-2-.07 has been amended by the adoption of a new subparagraph (1)(a)2.(viii); and by the repeal of subparagraphs (1)(c) and (2)(d) and by the adoption of new subparagraphs (1)(c) and (2)(d). Filed January 16, 1984 effective February 5, 1984.

Rule 590-4-2-.11 has been amended by the adoption of a new paragraph (4). Filed January 16, 1984; effective February 5, 1984.

Rule 590-4-2-.12 has been amended by the adoption of a new title; by the repeal of subparagraphs (1)(a), (1)(b), and paragraph (2); and by the adoption of new paragraphs (2) and (3). Filed January 16, 1984: effective February 5, 1984.

Rule 590-4-2-.13 has been adopted. Filed January 16, 1984; effective February 5, 1984.

Rule 590-4-3-.08 has been adopted. Filed January 16, 1984; effective February 5, 1984.

Rule 590-4-5-.01 has been amended by the repeal of subparagraphs (d)1.(i), (d)1.(ii), (d)2.(ii) and (d)3. and by the adoption of new subparagraphs (d)1.(i), (d)2.(ii), (d)l.(ii) and (d)3.; said Rule has been further amended by the adoption of a subparagraph (d)7.. Filed January 16, 1984; effective February 5, 1984.

Rule 590-4-5-.02 has been adopted. Filed January 16, 1984; effective February 5, 1984.

Rule 590-2-1-.04 has been amended by the repeal of subparagraph (4)(a) and by the adoption of a new subparagraph (4)(a); and by amending subparagraph (8)(a). Filed August 13, 1985; effective September 2, 1985.

Rules 590-1-1-.01 and 590-1-1-.02 have been repealed and new Rules 590-1-1-.01 and 590-1-1-.02 adopted. Filed September 19, 1985; effective October 9, 1985.

Rule 590-1-1-.04 has been amended by the adoption of subparagraph (n). Filed September 19, 1985; effective October 9, 1985.

Paragraph 590-2-2-.01 has been amended. Filed September 19, 1985; effective October 9, 1985.

Rules 590-4-1-.02, 590-4-1-.05 and 590-4-1-.07 have been amended. Filed February 24, 1987; effective March 16, 1987.

Rules 590-4-1-.08 and 590-4-1-.09 have been adopted. Filed February 24, 1987; effective March 16, 1987.

Rules 590-4-2-.01 and 590-4-2-.07 have been repealed and new Rules of these numbers adopted. Filed February 24, 1987; effective March 16, 1987.

Rules 590-4-2-.02, 590-4-2-.03, 590-4-2-.04, 590-4-2-.06, 590-4-2-.08, 590-4-2-.10, 590-4-2-.11, 590-4-2-.12, and 590-4-2-.13 have been amended. Filed February 24, 1987; effective March 16, 1987.

Rule 590-4-2-.14 has been adopted. Filed February 24, 1987; effective March 16, 1987.

Rules 590-4-3-.01, 590-4-3-.02, 590-4-3-.03, 590-4-3-.05, 590-4-3-.06 and 590-4-3-.07 have been amended. Filed February 24, 1987; effective March 16, 1987.

Rule 590-4-4-.01 has been amended and Rule 590-4-4-.03 has been amended by changing the authority. Filed February 24, 1987; effective March 16, 1987.

Subparagraphs 590-4-5-.011.(ii) and (i) have been amended; also subparagraph 590-4-5-.02 3. has been amended. Filed February 24, 1987; effective March 16, 1987.

Subparagraph 590-4-7-.01 has been amended. Filed February 24, 1987; effective March 16, 1987.

Chapter 590-4-7, entitled "Land Sales Registrations", containing Rule 590-4-7-.01, has been adopted. Filed February 24, 1987; effective March 16, 1987.

Chapter 590-7-1, entitled "Rules of General Applicability," containing Rules 590-7-1-.01 through 590-7-1-.09, was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.

Chapter 590-7-2, entitled "Reservation of Corporate Name," containing Rules 590-7-2-.01 through 590-7-2-.12, was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.

Chapter 590-7-3, entitled "Articles of Incorporation," containing Rules 590-7-3-.01 through 590-7-3-.09, was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.

Chapter 590-7-4, entitled "Corporate Annual Registration," containing Rules 590-7-4-.01 through 590-7-4-.11, was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.

Chapter 590-7-5, entitled "Corporate Information Center," containing Rules 590-7-5-.01 through 590-7-5-.04, was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.

Chapter 590-7-6, entitled "Certification of Documents," containing Rules 590-7-6-.01 through 590-7-6-.05, was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.

Chapter 590-7-7, entitled "Dissolutions, Revocations and Withdrawals," containing Rules 590-7-7-.01 through 590-7-7-.03, was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.

Chapter 590-7-8, entitled "Automated Data Processing System," containing Rules 590-7-8-.01 through 590-7-8-.05, was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.

Chapter 590-7-9, entitled "Service of Process," containing Rules 590-7-9-.01 through 590-7-9-.08, was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.

Chapter 590-8-1, entitled "Certification of Voting Equipment" containing Rule 590-8-1, was filed on January 21, 1988; effective February 10, 1988.

Chapter 590-4-9, entitled "Commodities," containing Rules 590-4-9-.01 through 590-4-9-.13, was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Chapter 590-7-10, entitled "Rules of General Applicability," containing Rules 590-7-10-.01 through 590-7-10-.08, was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Chapter 590-7-11, entitled, "Limited Partnership Name Reservation," containing Rules 590-7-11-.01 through 590-7-11-.10, was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Chapter 590-7-12, entitled "Certificate of Limited Partnership," containing Rules 590-7-12-.01 through 590-7-12-.09, was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Chapter 590-7-13, entitled "Limited Partnership Annual Registration," containing Rules 590-7-13-.01 through 590-7-13-.11, was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Chapter 590-7-14, entitled "Secretary of State Information Center," containing Rules 590-7-14-.01 through 590-7-14-.04, was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Chapter 590-7-15, entitled "Certification of Documents," containing Rules 590-7-15-.01 through 590-7-15-.05, was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Chapter 590-7-16, entitled "Cancellations, Revocations and Withdrawals," containing Rules 590-7-16-.01 through 590-7-16-.03, was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Chapter 590-7-17, entitled "Automated Data Processing System," containing Rules 590-7-17-.01 through 590-7-17-.05, was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Chapter 590-7-18, entitled "Service of Process," containing Rules 590-7-18-.01 through 590-7-18-.05, was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Emergency Rules 590-9-1-0.12, "Rules of General Applicability"; 590-9-2-0.13, "Paid Solicitors"; 590-9-3-0.14, "Registration of Charitable Organizations"; 590-9-4-0.15, "Prohibited Acts"; 590-9-5-0.16, "Exemptions from Registration"; and, 590-9-6-0.17, "Certification of Documents" were filed on July 1, 1988, effective July 1, 1988, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Chapters covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Emergency Rules are adopted in response to the enactment of the Georgia Charitable Solicitations Act of 1988, effective July 1, 1988, which imposes registration and reporting requirements on paid solicitors and charitable organizations. (Said Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-9-2-0.18-.09 entitled "Effective Date of Registration of Paid Solicitors" and 590-9-3-0.19-.07 entitled "Effective Date of Registration of Charitable Organization" were filed on July 6, 1988, having become effective on July 6, 1988, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Rules were adopted in response to the enactment of the Georgia Charitable Solicitations Act of 1988, which was to be effective July 1, 1988. (Said Rules will not be published; copies may be obtained from the Agency.)

Chapter 590-9-1, entitled "Rules of General Applicability," containing Rules 590-9-1-.01 through 590-9-1-.09, adopted. Filed October 7, 1988; effective November 1, 1988, as specified by the Agency.

Chapter 590-9-2, entitled "Paid Solicitors," containing Rules 590-9-2-.01 through 590-9-2-.09, adopted. Filed October 7, 1988; effective November 1, 1988, as specified by the Agency.

Chapter 590-9-3, entitled "Registration of Charitable Organizations," containing Rules 590-9-3-.01 through 590-9-3-.07, adopted. Filed October 7, 1988, effective November 1, 1988, as specified by the Agency.

Chapter 590-9-4, entitled "Prohibited Acts," containing Rules 590-9-4-.01 through 590-9-4-.02, adopted. Filed October 7, 1988; effective November 1, 1988, as specified by the Agency.

Chapter 590-9-5, entitled "Exemptions from Registration," containing Rules 590-9-5-.01 through 590-9-5-.08, adopted. Filed October 7, 1988, effective November 1, 1988, as specified by the Agency.

Chapter 590-9-6 entitled "Certification of Documents," containing Rules 590-9-6-.01 through 590-9-6-.05, adopted. Filed October 7, 1988; effective November 1, 1988, as specified by the Agency.

Rules 590-3-1-.01, 590-3-1-.02, 590-3-1-.04, 590-3-1-.07, 590-3-1-.09, 590-3-1-.12, 590-3-1-.13 and 590-3-1-.15 have been amended and new rules 590-3-1-.16, 590-3-1-.17 and 590-3-1-.18 adopted. Filed December 20, 1988; effective January 9, 1989.

Chapter 590-3-2 has been repealed and a new chapter 590-3-2 adopted. Filed December 20, 1988; effective January 9, 1989.

Rules 590-3-3-.01, 590-3-3-.03, 590-3-3-.07 and 590-3-3-.09 have been amended. Filed December 20, 1988; effective January 9, 1989.

Rules 590-3-4-.01, 590-3-4-.02, 590-3-4-.03 and 590-3-4-.04 have been amended. Filed December 20, 1988; effective January 9, 1989.

Emergency Rule 590-4-8-0.20, entitled "Investment Advisers", containing Rules 590-4-8-0.20-.01 to 590-4-8-0.20-.18, was filed on March 31, 1989, effective April 1, 1989, to remain in effect for a period of 120 days or until the effective date of a permanent Chapter covering the same subject matter superseding this Emergency Rule, as specified by the Agency. This Emergency Rule is adopted in response to the enactment of amendments to the Georgia Securities Act of 1973, as amended, regarding the registration and regulation of investment advisers, effective April 1, 1989. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Chapter 590-4-8 entitled "Investment Advisers", containing Rules 590-4-8-.01 through 590-4-8-.18, has been adopted. Filed May 11, 1989; effective June 1, 1989, as specified by the Agency.

Emergency Rule 590-7-1-0.21 amending 590-7-1-0.21-.01(5) and adopting 590-7-1-0.21-.08(7), was filed on July 7, 1989, effective July 3, 1989, the date of adoption, to remain in effect for a period of 120 days or until the adoption of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. This Emergency Rule is adopted in response to amendments to the Georgia Business Corporation Code effective July 1, 1989. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule 590-7-2-0.22 amending 590-7-2-0.22-.01(1) and (4), adopting 590-7-2-0.22-.01(5), (6) and (7), amending 590-7-2-0.22-.03(3), repealing 590-7-2-0.22-.05, amending 590-7-2-0.22-.06(3)(b), repealing 590-7-2-0.22-.07, amending 590-7-2-0.22-.11(1), (2) and (3), amending 590-7-0.22-.12(1) and adopting 590-7-2-0.22-.12(2), was filed on July 7, 1989, effective July 3, 1989, the date of adoption, to remain in effect for a period of 120 days or until the adoption of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. This Emergency Rule is adopted in response to amendments to the Georgia Business Corporation Code effective July 1, 1989. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule 590-7-3-0.23 repealing 590-7-3-0.23-.05(4), amending 590-7-3-0.23-.05(5), 590-7-3-0.23-.08(1) and (2), adopting 590-7-3-0.23-.09(3) and 590-7-3-0.23-.10, was filed on July 7, 1989, effective July 3, 1989, the date of adoption, to remain in effect for a period of 120 days or until the adoption of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. This Emergency Rule is adopted in response to amendments to the Georgia Business Corporation Code effective July 1, 1989. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule 590-7-4-0.24 amending 590-7-4-0.24-.02, .08 and .10, was filed on July 7, 1989, effective July 3, 1989, the date of adoption, to remain in effect for a period of 120 days or until the adoption of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule 590-7-7-0.25 amending 590-7-7-0.25-.02(2) and (3), and 590-7-7-0.25-.03(2) was filed on July 7, 1989, effective July 3, 1989, the date of adoption, to remain in effect for a period of 120 days or until the adoption of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. This Emergency Rule is adopted in response to amendments to the Georgia Business Corporation Code effective July 1, 1989. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule 590-7-9-0.26 amending 590-7-9-0.26-.03(2) and repealing 590-7-9-0.26-.06, .07 and .08 was filed on July 7, 1989, effective July 3, 1989, the date of adoption, to remain in effect for a period of 120 days or until the adoption of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. This Emergency Rule is adopted in response to amendments to the Georgia Business Corporation Code effective July 1, 1989. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Rule 590-7-1-.01 has been amended and Rule 590-7-1-.08 has been adopted. Filed November 20, 1989; effective December 11, 1989, as specified by the Agency.

Rule 590-7-2-.01 has been amended and paragraphs (5),(6) and (7) have been adopted. Filed November 20, 1989; effective December 11, 1989, as specified by the Agency.

Rule 590-7-2-.03 has been amended. Filed November 20, 1989; effective December 11, 1989, as specified by the Agency.

Rule 590-7-2-.05 has been repealed. Filed November 20, 1989; effective December 11, 1989, as specified by the Agency.

Rule 590-7-2-.06 has been amended. Filed November 20, 1989; effective December 11, 1989, as specified by the Agency.

Rule 590-7-2-.07 has been repealed. Filed November 20, 1989; effective December 11, 1989, as specified by the Agency.

Rule 590-7-2-.11 has been amended. Filed November 20, 1989; effective December 11, 1989, as specified by the Agency.

Rule 590-7-2-.12 has been amended and paragraph (2) has been adopted. Filed November 20, 1989; effective December 11, 1989, as specified by the Agency.

Rule 590-7-3-.05 has been amended by repealing paragraph (4) and amending paragraph (5). Filed November 20, 1989; effective December 11, 1989, as specified by the Agency.

Rule 590-7-3-.08 has been amended. Filed November 20, 1989; effective December 11, 1989, as specified by the Agency.

Rule 590-7-3-.09 has been adopted. Filed November 20, 1989; effective December 11, 1989, as specified by the Agency.

Rule 590-7-3-.10 has been adopted. Filed November 20, 1989; effective December 11, 1989, as specified by the Agency.

Rules 590-7-4-.02, .08 and .10 have been amended. Filed November 20, 1989; effective December 11, 1989, as specified by the Agency.

Rule 590-7-7-.02 have been amended. Filed November 20, 1989; effective December 11, 1989, as specified by the Agency.

Rule 590-7-7-.03 has been amended. Filed November 20, 1989; effective December 11, 1989, as specified by the Agency.

Rule 590-7-9-.03 has been amended. Filed November 20, 1989; effective December 11, 1989, as specified by the Agency.

Rules 590-7-9-.06, .07 and .08 have been repealed. Filed November 20, 1989; effective December 11, 1989, as specified by the Agency.

Emergency Rules, amending Rules 590-7-2-0.27-.01(1), (5); 590-7-2-0.27-.03(2), (3); 590-7-3-0.28-.09(1)(a), (1)(b), 2(a); (2)(b); 590-7-7-0.29-.01(1),(2); 590-7-7-0.29-.02(2)(a)(c); 590-7-7-0.29-.03(1)(a)(b),(2)(e); 590-7-11-0.30-.04(2)(3) have been adopted and Rule 590-7-11-.06 repealed. Filed and effective April 9, 1990, the date of adoption, to remain in effect for a period of 120 days, or until the effective date of a permanent Rule superseding this Emergency Rule, as specified by the Agency. Said Emergency Rules were adopted in response to amendments to the Georgia Business Corporation Code and to promote the public welfare by assisting citizens in complying with the new Law. (Said Emergency Rule will not be published, copies may be obtained from the Agency.)

Rules 590-7-1-.01, .02, .09(2) amended; .05 and .07 have been repealed; .06(7) has been repealed and readopted; .08(7), .10 and .11 have been adopted. Authorities repealed and new authority adopted. Filed August 7, 1990; effective August 28, 1990, as specified by the Agency.

Rules 590-7-2-.01, .02, .03, .06, .11 have been amended; .12(3) has been adopted. Authority repealed and new authority adopted. Filed August 7, 1990; effective August 28, 1990, as specified by the Agency.

Rules 590-7-3-.03, .05, .08, .09 and .10 have been amended. Authority repealed and new authority adopted. Filed August 7, 1990; effective August 28, 1990, as specified by the Agency.

Rules 590-7-4-.02, .03, .06 and .10 have been amended. Authority repealed and new authority adopted. Filed August 7, 1990; effective August 28, 1990, as specified by the Agency.

Rules 590-7-5-.04 has been amended. Authority repealed and new authority adopted. Filed August 7, 1990; effective August 28, 1990, as specified by the Agency.

Rules 590-7-6-.01, and .05 have been amended. Authority repealed and new authority adopted. Filed August 7, 1990; effective August 28, 1990, as specified by the Agency.

Rules 590-7-7-.01, .02, .03 have been amended. Authority repealed and new authority adopted. Filed August 7, 1990; effective August 28, 1990, as specified by the Agency.

Rules 590-7-11-.04, .07 have been amended. Authority repealed and new authority adopted. Filed August 7, 1990; effective August 28, 1990, as specified by the Agency.

Rule 590-4-1-.01 has been adopted. Filed August 8, 1990; effective August 28, 1990.

Rules 590-4-2-.15, .16, .17 have been adopted. Filed August 8, 1990; effective August 28, 1990.

Rules 590-4-3-.10, .11, .12 have been adopted. Filed August 8, 1990: effective August 28, 1990.

Rule 590-4-4-.04 has been adopted. Filed August 8, 1990; effective August 28, 1990.

Rule 590-4-2-.061. has been amended. Filed September 27, 1990; effective October 17, 1990.

Rules 590-4-3-.02, 590-4-3-.04(1)(a)1. and 590-4-3-.07 have been amended. Filed September 27, 1990; effective October 17, 1990.

Rules 590-4-8-.081.,(5) has been amended. Filed September 27, 1990; effective October 17, 1990.

Rules 590-4-1-.01, .02 and .09 have been amended. Filed December 13, 1990; effective January 2, 1991.

Rule 590-4-5-.01 has been amended and Rule 590-4-5-.03 has been adopted. Filed December 13, 1990; effective January 2, 1991.

Chapters 590-4-6 and 590-4-7 have been repealed in their entirety. Filed December 13, 1990; effective January 2, 1991.

Rule 590-7-1-.01 has been amended. Filed December 13, 1990; effective January 2, 1991.

Rule 590-7-2-.06 adopted. Filed December 13, 1990; effective January 2, 1991.

Emergency Rules, amending Rules 590-7-1-0.31-.10(b) 4., and (c)4., .12; 590-7-3-0.32-.01(3) and (4), .02, .09(1) and (3), .10; 590-7-4-0.33-.10; 590-7-7-0.34-.02(2) and (3); 590-7-11-0.36-.07(3), .08; 590-7-12-0.37-.01(3), .02, .08 and 590-7-10-0.35-.05 repealed have been adopted. Filed September 5, 1991; effective September 2, 1991, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule superseding this Emergency Rule, as specified by the Agency. Said Emergency Rules were adopted because of "the recent effectiveness of the Revised Georgia Non-profit Corporation Code and the revision of forms as prescribed by the Commissioner of Corporations, and to correct errors in the current Rules, respectively". (Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-7-1-0.38-.10, .12; 590-7-3-0.39-.01, .02, .09, .10; 590-7-4-0.40-.10; 590-7-7-0.41-.02; 590-7-10-.0.42-.05; 590-7-11-0.43-.07, .08; 590-7-12-0.44-.01, .02 have been adopted. Filed and effective December 31, 1991, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule superseding this Emergency Rule, as specified by the Agency. Said Emergency Rules were adopted because of "the recent effectiveness of the Revised Georgia Non-profit Corporation Code and the revision of forms as prescribed by the Commissioner of Corporations, and to correct errors in the current Rules, respectively". (Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-7-1-0.45, 590-7-3-0.46, 590-7-4-0.47, 590-7-7-0.48, 590-7-10-0.49, 590-7-11-0.50, 590-7-12-0.51 have been adopted. Filed and effective May 1, 1992, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule superseding this Emergency Rule, as specified by the Agency. Said Emergency Rules were adopted because of "the correction of errors in the current Rules and revisions of forms". (Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-10-1-0.52, 590-10-2-0.53, 590-10-3-0.54, 590-10-4-0.55, 590-10-5-0.56, 590-10-6-0.57, 590-10-7-0.58, 590-10-8-0.59 have been adopted. Filed and effective July 1, 1992, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule superseding this Emergency Rule, as specified by the Agency. Said Emergency Rules were adopted because of the "newly enacted code sections 14-11-1 through 14-11-19 of the O.C.G.A." (Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-7-1-0.60, 590-7-3-0.61, 590-7-4-0.62, 590-7-7-0.63, 590-7-10-0.64, 590-7-11-0.65, 590-7-12-0.66 were filed and effective August 28, 1992, the date of adoption, to remain in effect for a period of 120 days or until the adoption of permanent Rules covering the same subject matter superseding this Emergency Rule, as specified by the Agency. These Emergency Rules are adopted in response to Revised Georgia Non-profit Corporation Code revision of forms. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-10-1-0.67, 590-10-2-0.68, 590-10-3-0.69, 590-10-4-0.70, 590-10-5-0.71, 590-10-6-0.72, 590-10-7-0.73, 590-1-8-0.74 was filed and effective October 28, 1992, the date of adoption, to remain in effect for a period of 120 days or until the adoption of permanent Rules covering the same subject matter superseding these Emergency Rules, as specified by the Agency. These Emergency Rules are adopted in response to revised code sections 14-11-1 through 14-11-19. (Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rule 590-7-16-0.75 was filed and effective December 1, 1992, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. Said Emergency Rule was adopted to comply with O.C.G.A. Section 14-9-206.7. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rules 509-7-1-0.76, 590-7-3-0.77, 590-7-4-0.78, 590-7-7-0.79, 590-7-10-0.80, 590-7-11-0.81, 590-7-12-0.82 was filed on January 7, 1993, effective January 1, 1993, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Emergency Rules were adopted in response to the Revised Georgia Nonprofit Corporation code. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-10-1-0.83, 590-1-2-0.84, 590-10-3-0.85, 590-10-4-0.86, 590-10-5-0.87, 590-10-6-0.88, 590-10-7-0.89, 590-10-8-0.90 were filed on February 26, 1993, effective February 25, 1993, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding these Emergency Rules, as specified by the Agency. These Emergency Rules are adopted in response to revised code sections 14-11-1 through 14-11-19. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rule 590-7-16-0.91 entitled "Cancellations, Dissolutions and Mergers" was filed and effective on March 30, 1993, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Chapter covering the same subject matter, as specified by the Agency. Said Rule was adopted to implement O.C.G.A. Section 14-9-206.7. (Said Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-7-1-0.92, 590-7-3-0.93, 590-7-4-0.94, 590-7-7-0.95, 590-7-10-0.96, 590-7-11-0.97 and 590-7-12-0.98 were filed on May 3, 1993; effective April 30, 1993, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Emergency Rules were adopted due to "the revised Georgia Nonprofit Corporation Code and the revision of forms." (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-10-1-0.99, 590-1-2-0.100, 590-1-3-0.101, 50-10-4-0.102, 590-10-5-0.103, 590-10-6-0.104, 590-10-7-0.105, 590-10-8-0.106 have been adopted. Filed and effective June 25, 1993, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Emergency Rules were adopted because ... newly enacted code sections ... (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Rules 590-7-1-.10, .11; 7-3-.02, .10; 7-4-.02 were repealed and readopted; 590-7-2-.06, 7-3-.01, .09; 7-4-.10; 7-5-.03; 7-6-.03; 7-7-.02, .03; 7-11-.07, .08; 7-12-.01, .02, .08; 7-14-.03, 7-15-.03 and 7-16-.01 were amended; 590-7-1-.12 adopted; 590-7-10-.05 repealed. Filed July 1, 1993; effective July 21, 1993.

Emergency Rules 590-10-1-0.107, 590. 10-2-0.108, 590-10-3.0.109, 590-10-4-0.110, 590-10-5-0.111, 590-1-6-0.112, 590-10-7-0.113, 590-10-8-0.114 were filed on October 25, 1993; effective October 22, 1993, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Emergency Rules were adopted because of newly enacted code sections 14-11-1 through 14-11-19 of the O.C.G.A. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-10-1-0.115, 590-10-2-0.116, 590-10-3-0.117, 590-10-4-0.118, 590-10-5-0.119, 590-10-6-0.120, 590-10-7-0.121, 590-10-8-0.122 were filed on March 4, 1994, effective March 1, 1994, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Emergency Rules were adopted to comply with the Georgia Limited Liability Company Act. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-10-1-0.123, 590-10-2-0.124, 590-10-3-0.125, 590-10-4-0.126, 590-10-5-0.127, 590-10-6-0.128, 590-10-7-0.129, 590-10-8-0.130, were filed and effective on June 28, 1994, the date of adoption, to remain in effect for s period of 120 days or until the effective date

of permanent Rules covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Emergency Rules were adopted to comply with the Georgia Limited Liability Company Act. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-11-1-0.131, 590-11-2-0.132, 590-11-3-0.133, 590-11-4-0.134, 590-11-5-0.135, 590-11-6-0.136, 590-11-7-0.137, 590-11-8-0.138, were filed on July 8, 1994, effective July 1, 1994, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Emergency Rules were adopted to comply with O.C.G.A. Sections 14-8-44 to 14-8-61. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-10-1-0.139, 590-10-2-0.140, 590-10-3-0.141, 590-10-4-0.142, 590-10-5-0.143, 590-10-6-0.144, 590-10-7-0.145, 590-10-8-0.146 were filed October 31, 1994 effective October 27, 1994, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rule covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Emergency Rules were adopted to comply with the Georgia Limited Liability Company Act. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-11-1-0.147, 590-11-2-0.148, 590-11-3-0.149, 590-11-4-0.150, 590-11-5-0.151, 590-11-6-0.152, 590-11-7-0.153, 590-11-8-0.154 were filed November 1, 1994, effective October 28, 1994, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Emergency Rules were adopted to comply with the newly enacted code sections of the Official Code of Georgia Annotated. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-10-1-0.155, 590-10-2-0.156, 590-10-3-0.157, 590-10-4-0.158, 590-10-5-0.159, 590-10-6-0.160, 590-10-7-0.161, 590-10-8-0.162 were filed on February 27, 1995, effective February 24, 1995, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Emergency Rules were adopted to comply with the Georgia Limited Liability Company Act. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-11-1-0.163, 590-11-2-0.164, 590-11-3-0.165, 590-11-4-0.166, 590-11-5-0.167, 590-11-6-0.168, 590-11-7-0.169, 590-11-8-0.170 were filed on February 28, 1995, effective February 27, 1995, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Emergency Rules were adopted to comply with O.C.G.A. sections 14-8-44 to 14-8-61. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-10-1-0.171, 590-10-2-0.172, 590-10-3-0.173, 590-10-4-0.174, 590-10-5-0.175, 590-10-6-0.176, 590-10-7-0.177, 590-10-8-0.178 were filed on June 30, 1995, effective June 26, 1995, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Emergency Rules were adopted to comply with the Georgia Limited Liability Company Act. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-11-1-0.179, 590-11-2-0.180, 590-11-3-0.181, 590-11-4-0.182, 590-11-5-0.183, 590-11-6-0.184, 590-11-7-0.185, 590-11-8-0.186 were filed on July 7, 1995, effective June 30, 1995, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Emergency Rules were adopted to comply with O.C.G.A. sections 14-8-44 to 14-8-61. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-10-1-0.187, 590-10-2-0.188, 590-10-3-0.189, 590-10-4-0.190, 590-10-5-0.191, 590-10-6-0.192, 590-10-7-0.193, 590-10-8-0.194 were filed on October 26, 1995, effective October 25, 1995, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Emergency Rules were adopted to comply with the Georgia Limited Liability Company Act. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-11-1-0.195, 590-11-2-0.196, 590-11-3-0.197, 590-11-4-0.198, 590-11-5-0.199, 590-11-6-0.200, 590-11-7-0.201, 590-11-8-0.202 were filed on October 31, 1995, effective October 27, 1995, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Emergency Rules were adopted to comply with O.C.G.A. sections 14-8-44 to 14-8-61. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-10-1-0.203, 590-10-2-0.204, 590-10-3-0.205, 590-10-4-0.206, 590-10-5-0.207, 590-10-6-0.208, 590-10-7-0.209, 590-10-8-0.210 were filed on February 23, 1996, effective February 22, 1996, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Emergency Rules were adopted to comply with the Georgia Limited Liability Company Act. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 590-11-1-0.211, 590-11-2-0.212, 590-11-3-0.213, 590-11-4-0.214, 590-11-5-0.215, 590-11-6-0.216, 590-11-7-0.217, 590-11-8-0.218 were filed on February 27, 1996, effective February 26, 1996, the date of adoption, to remain in effect for a period of 120 days or until the effective date of permanent Rules covering the same subject matter superseding these Emergency Rules, as specified by the Agency. Said Emergency Rules were adopted to comply

with the Georgia Limited Liability Company Act. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Grant 590-10-3 entitled "Georgia Historical Records Advisory Board Grant Programs" submitted April 11, 1996.

Chapter 590-10-2 entitled "Georgia Historical Records Advisory Board" adopted. Filed May 30, 1996; effective June 19, 1996.

Grant 590-10-3-.02 submitted September 17, 1998.

Grant 590-10-3-.03 submitted June 6, 2000.

Chapters 590-3-1, 590-3-3 and 590-3-4 have been repealed and new Chapters adopted. Chapter 590-3-2 has been repealed and held in reserve. Chapter 590-3-5 entitled "Merchandise Dealers" has been adopted. Filed July 26, 2000; effective August 15, 2000.

Rule 590-2-1-.04 has been repealed and a new Rule entitled "Rules Filed After August 30, 2000" adopted. Filed August 10, 2000; effective August 30, 2000.

Rules 590-3-1-.10, .12, .15, 590-3-3-.01 and 590-3-4-.04 have been repealed and new Rules adopted. Rules 590-3-3-.10, .11 and 590-3-4-.06 have been adopted. Filed November 6, 2001; effective November 26, 2001.

Rules 590-3-1-.13, 590-3-1-.14 and 590-3-5-.01 have been repealed and new Rules, same title adopted; Rule 590-3-5-.02 has been repealed and a new Rule entitled "Installation of Merchandise" adopted; Rules 590-3-2-.01 and 590-3-4-.01 have been adopted. Filed January 17, 2002; effective February 6, 2002.

Rules 590-4-8-.01 to .05, .07, .08, .12, .15, and .18 have been repealed and new Rules adopted. Rules 590-4-8-.19 and .20 have been adopted. Filed December 19, 2002; effective January 8, 2003.

Rule 590-2-1-.04 has been repealed and a new Rule adopted. Filed February 28, 2003; effective March 20, 2003.

Rules 590-3-1-.01 and 590-3-3-.05 have been amended. Filed December 11, 2003; effective December 31, 2003.

Chapters 590-9-1 to 590-9-6 have been repealed and new Chapters adopted. Chapter 590-9-7 entitled "Certification of Documents" has been adopted. Filed February 26, 2004; effective March 17, 2004.

Chapter 590-8-2 entitled "Help America Vote Act of 2002 Provisions" has been adopted. Filed May 11, 2004; effective May 31, 2004.

Rule 590-3-5-.01 has been repealed and a new Rule adopted. Filed August 26, 2004; effective September 15, 2004.

Chapters 590-4-1 to 590-4-5, 590-4-8, and 590-4-9 have been repealed and new Chapters adopted. Chapters 590-4-6 entitled "Administrative Hearings" and 590-4-7 entitled "Advertising and Internet Marketing" have been adopted. Filed December 21, 2004; effective January 10, 2005.

Rule 590-8-1-.01 has been repealed and a new Rule adopted. Filed March 28, 2005; effective April 17, 2005.

Chapters 590-3-1 to 590-3-5 have been repealed and new Chapters adopted. Chapters 590-3-6 entitled "Mausoleum Preconstruction" and 590-3-7 entitled "Administrative Hearings" have been adopted. Filed May 19, 2005; effective June 8, 2005.

Chapters 590-6-1 entitled "Digital Archives" and 590-6-2 entitled "Archival Standards" have been adopted. Filed August 9, 2006; effective August 29, 2006.

Chapter 590-6-3 entitled "Temporary Records Storage" has been adopted. Filed May 22, 2008; effective June 11, 2008.

Rule 590-3-1-.12 has been amended. Filed August 27, 2008; effective September 16, 2008.

Rule 590-8-1-.02 has been adopted. Filed December 16, 2009; effective January 5, 2010.

Rule 590-7-1-.08 repealed and readopted. F. Aug. 3, 2011; eff. Aug. 23, 2011.

Rule 590-7-1-.13 adopted. F. Aug. 3, 2011; eff. Aug. 23, 2011.

Rule 590-7-1-.08 has been adopted. F. Sep. 30, 2011; eff. Oct. 20, 2011.

Rule 590-7-3-.09 has been adopted. F. Sep. 30, 2011; eff. Oct. 20, 2011.

Rule 590-3-3-.01 amended. F. Nov. 4, 2011; eff. Nov. 24, 2011.

Chapters 590-4-1, 590-4-2, 590-4-3, 590-4-4, 590-4-5, 590-4-6 repealed and readopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rules 590-4-2-.03, .07, .08, 590-4-4-.01, .02, .07, .08, .09 amended. F. Mar. 9, 2012; eff. Mar. 29, 2012.

Rules 590-4-4-.14, .15, .17 repealed and readopted. F. Mar. 9, 2012; eff. Mar. 29, 2012.

Rules 590-4-2-.08 and 590-4-4-.14 amended. F. Dec. 7, 2012; eff. Dec. 27, 2012.

Rules 590-7-4-.06, 590-7-1-.01, 590-7-10-.01, 590-7-13-.06 amended. F. Jan. 3, 2013; eff. Jan. 23, 2013.

Rules 590-7-12-.05, 590-7-3-.06 amended. F. Jan. 25, 2013; eff. Feb. 14, 2013.

Rules 590-3-4-.03 and 590-3-3-.09 amended. F. Feb. 19, 2013; eff. Mar. 11, 2013.

Rules 590-3-4-.01 and 590-3-3-.06 amended. Rule 590-3-4-.07 entitled "Preneed Trust Fund" adopted. F. May 21, 2013; eff. Jun. 10, 2013.

Rules 590-7-1-.09, 590-7-6-.01, 590-7-10-.08, 590-7-15-.01 amended; Rules 590-7-3-.03, 590-7-3-.07, 590-7-12-.03, 590-7-12-.06 repealed. F. Sep. 30, 2013; eff. Oct. 20, 2013.

Rule 590-4-2-.09 entitled "Request for Transactional Exemption Pursuant to a Fairness Determination" adopted. F. Jul. 22, 2014; eff. Aug. 11, 2014.

Rule 590-4-2-.08 amended. F. Sep. 24, 2015; eff. Oct. 15, 2015.

Rules 590-3-3-.05, 590-3-3-.07 amended. F. Oct. 7, 2015; eff. Oct. 27, 2015.

Rule 590-9-4-.07 adopted. F. Dec. 8, 2015; eff. Dec. 28, 2015.

Chapter 590-11-1 entitled "Music Therapy" adopted. F. Feb. 10, 2016; eff. Mar. 1, 2016.

Rules 590-7-1-.01, 590-7-1-.13, 590-7-10-.01 amended. F. Oct. 3, 2016; eff. Oct. 23, 2016.

Rule 590-4-2-.04 amended. F. Dec. 14, 2016; eff. Jan. 3, 2017.

Rule 590-9-4-.01 amended. F. Jan. 11, 2017; eff. Jan. 31, 2017.

Chapters 590-7-19 entitled "Limited Liability Companies - Rules of General Applicability," 590-7-20 entitled "Limited Liability Companies - Name," 590-7-21 entitled "Limited Liability Companies - Filing of Documents," 590-7-22 entitled "Limited Liability Companies - Annual Registrations," 590-7-23 entitled "Limited Liability Companies - Terminations, Dissolutions, Revocations, and Withdrawals," 590-7-24 entitled "Limited Liability Companies - Certification of Documents," 590-7-25 entitled "Limited Liability Companies - Service of Process," 590-7-26 entitled "Limited Liability Companies - Information Center," 590-7-27 entitled "Limited Liability Companies - Automated Data Processing System," 590-7-28 entitled "Cable/Video State Franchise" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-4-2-.08 amended. F. June 21, 2017; eff. July 11, 2017.

Rule 590-3-1-.11 amended. F. Oct. 13, 2017; eff. Nov. 2, 2017.

Chapter 590-12-1 entitled "Lactation Consultants" adopted. F. Nov. 29, 2017; eff. Dec. 19, 2017.

Note: Rule 590-2-1-.01, correction of non-substantive typographical error in Rule History on SOS Rules and Regulations website. "***History.*** *Amended:Rule repealed and anew Rule of the same title adopted. F. Nov. 1, 1965; eff. Nov. 20, 1965."* corrected to *"**History.** Original Rule entitled "Numbering System" adopted as R. 590-2-.01. F. and eff. June 21, 1965. **Amended:** Rule repealed and a new Rule of the same title adopted. F. Nov. 1, 1965; eff. Nov. 20, 1965."* Effective June 24, 2018.

Rules 590-1-1-.01, .02, .04; 590-2-1-.01, .02, .04; 590-2-2-.01 amended. Rule 590-1-1-.03, Chapters 590-5, 590-6, 590-10 repealed. F. June 4, 2018; eff. June 24, 2018.

Subject 590-7-1 title changed to "Corporations - Rules of General Applicability", Rules 590-7-1-.01, .02, .08 thru .11 amended, Rule 590-7-1-.14 adopted. Subject 590-7-2 title changed to "Corporate Name", Rules 590-7-2-.01, thru .04, .06, .09, .10, .12 amended. Subject 590-7-3 title changed to "Corporations - Filing of Documents", Rules 590-7-3-.01, .02, .05, .06, .08 thru .10 amended, Rule 590-7-3-.04 repealed, Rule 590-7-3-.07 adopted. Subject 590-7-4 title changed to "Corporations - Annual Registration", Rules 590-7-4-.01, .02, .06, .11 amended, Rules 509-7-4-.05, .07 repealed. Rule 590-7-5-.03 repealed, Rule 590-7-5-.04 amended. Subject 590-7-6 title changed to "Corporations - Certification of Documents", Rules 590-7-6-.01, .02, .05 amended, Rule 590-7-6-.03 repealed. Subject 590-7-7 title changed to "Corporations - Dissolutions, Revocations and Withdrawals", Rules 590-7-7-.02, .03 amended. Subject 590-7-9 title changed to "Corporations - Service of Process", Rules 590-7-9-.01 thru .04 amended. Rules 590-7-10-.01, .02, .07, .08 amended, Rules 590-7-10-.09 thru .12 adopted. Subject 590-7-11 title changed to "Limited Partnerships - Name", Rules 590-7-11-.01, .03 thru .05, .07, .10 amended, Rule 590-7-11-.02 repealed, Rule 590-7-11-.06 adopted. Subject 590-7-12 title changed to "Limited Partnerships - Filing of Documents", Rules 590-7-12-.01, .02, .05, .07, .08 amended, Rule 590-7-12-.06 adopted. Subject 590-7-13 title changed to "Limited Partnerships - Annual Registration", Rules 590-7-13-.01, .03, .06, .11 amended, Rules 590-7-13-.05, .07 repealed. Subject 590-7-14 title changed to "Limited Partnerships - Secretary of State Information Center, Rule 590-7-14-.03 repealed, Rule 590-7-14-.04 amended. Rules 590-7-15-.01, .02, .05 amended, Rule 590-7-15-.03 repealed. Rules 590-7-16-.01 thru .03 amended. Rules 590-7-18-.01 thru .04 amended. Rules 590-7-19-.01, .06, .07, .10 amended, Rule 590-7-19-.11 adopted. Rules 590-7-20-.03, .04, .06 amended. Rules 590-7-21-.03, .04 amended, Rule 590-7-21-.08 adopted. Rule 590-7-23-.01 amended. Rules 590-7-24-.01, .03 amended. Rules 590-7-25-.02, .04 amended. F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-4-4-.09 amended. F. Mar. 8, 2019; eff. Mar. 28, 2019.

Rule 590-4-5-.02 amended. F. Apr. 19, 2019; eff. May 9, 2019.

Rules 590-7-1-.01, 590-7-1-.08, 590-7-10-.01, 590-7-10-.07, 590-7-19-.01, 590-7-19-.06 amended. Rules 590-7-4-.05, 590-7-13-.05, 590-7-22-.10 adopted. F. July 23, 2019; eff. Aug. 12, 2019.

Subject 590-8-3 entitled "Security of Voter Registration System" adopted. F. July 24, 2019; eff. Aug. 13, 2019.

Rules 590-4-4-.01, 590-4-5-.10 amended. F. Dec. 9, 2021; eff. Dec. 29, 2021.

Subject 590-7-29 entitled "Structured Settlement Purchase Companies" adopted. F. Apr. 27, 2022; eff. May 17, 2022.

Chapter 590-1. ORGANIZATION.

Subject 590-1-1. ORGANIZATION.

Rule 590-1-1-.01. Organization.

(1) The Secretary of State of the State of Georgia is a Constitutional Officer in State Government, under the Constitution of Georgia, and is elected for a four year term. The Office of Secretary of State is primarily an office of record and is divided into a number of divisions and subdivisions, as follows:

(a) Administration Division;

(b) Administrative Procedure Division;

(c) Corporations Division, including Special Services, Banking, Insurance and Railroad Charters, Trademarks, and Service of Process;

(d) Elections Division, including Commissions and Registration;

(e) Professional Licensing Boards Division; and

(f) Securities and Charities Division.

(2) The Constitution of the State of Georgia designates the Secretary of State as the custodian of the Great Seal of Georgia, which is placed upon documents and papers as authorized by the Governor or the General Assembly.

Cite as Ga. Comp. R. & Regs. R. 590-1-1-.01
Authority: O.C.G.A. § 45-13-1 et seq.
History. Original Rule entitled "Organization" was filed on June 29, 1966, as 590-1-.01; effective July 18, 1966.
Amended: Rule repealed and a new Rule of the same title adopted. Filed December 29, 1978; effective January 18, 1979.
Amended: Rule repealed and a new Rule of the same title adopted, and Rule renumbered as 590-1-1-.01. Filed March 30, 1981; effective April 19, 1981.
Amended: Rule repealed and a new Rule of the same title adopted. Filed September 19, 1985; effective October 9, 1985.

Amended: F. June 4, 2018; eff. June 24, 2018.

Rule 590-1-1-.02. Description of Departments.

The Divisions listed in Rule 590-1-1-.01 have varied duties, some of which may not be directly reflected by the division titles, but which are otherwise within the authority of the Office of Secretary of State.

(a) **Administration Division**. Under the management of the Director of Administration, this Division provides staff support to the entire Office of Secretary of State, as follows:

1. Budget:

   (i) prepares and submits the annual budget for the Office of Secretary of State, and monitors expenditures against it;

   (ii) secures approval for budget amendments, as necessary;

2. Accounting:

   (i) processes and posts all disbursements and receipts;

   (ii) provides payroll services to all employees;

3. Information Management:

   (i) coordinates computer services for all divisions;

4. Personnel:

   (i) coordinates all personnel activities;

5. Procurement:

   (i) coordinates the purchasing and surplusing of all supplies and equipment;

6. Support Services:

   (i) handles all mail distribution, mass mailouts, inventory of supplies and equipment, and warehousing of supplies.

(b) **Administrative Procedure Division.** The Administrative Procedure Division is designated by the Secretary of State to carry out the provisions of the Georgia Administrative Procedure Act (O.C.G.A. § 50-13-1 et seq., as amended) as it relates to the Secretary of State and to carry out the provisions of O.C.G.A. § 45-13-22, as amended. This Division:

1. receives, records, and makes available for public examination and copying all rules and regulations of State agencies required by O.C.G.A. § 50-13-1 et seq., as amended, to file such rules and regulations with the Secretary of State;

2. maintains files of the original copy of all such rules and regulations as described in subparagraph (b)1. of this Rule;

3. publishes in print or electronically the volumes of the Official Compilation Rules and Regulations of the State of Georgia (hereinafter,"Rules and Regulations");

4. composes the Administrative History of all new, amended, or repealed rules and regulations as described in subparagraph (b)1. of this Rule, as published in the Rules and Regulations;

5. at such time as the publishing of rules and regulations is temporarily withheld, or emergency rules are filed that will not be published, issues a Bulletin (usually appearing on the Instructional Sheet accompanying monthly supplements to the Rules and Regulations) notifying subscribers to supplements to said Rules and Regulations of same;

6. makes available upon request, in accordance with O.C.G.A. Sec. 50-13-7 of the Georgia Administrative Procedure Act, the Rules and Regulations to the heads of all departments, bureaus, agencies, commissions and boards of this State, members of the General Assembly, judges of the supreme court and court of appeals, judges, clerks and district attorneys of the superior courts free of charge, and to others at a price fixed by the Secretary of State;

7. upon request, under the Official Seal of the Secretary of State, provides certified copies of rules and regulations to the courts, members of the legal profession and interested persons;

8. supervises the publishing and distribution of electronic version and hard-bound volumes of Georgia Laws, Senate Journals and House Journals; and

9. maintains, and updates, a mailing list for circulation of electronic version and hard-bound volumes of Georgia Laws, Senate Journals and House Journals to the legal profession and the public.

(c) **Corporations Division**. The Corporations Division is divided into three subdivisions, the Corporate Certifications subdivision, the Special Services subdivision, and the Trademarks subdivision.

1. Corporate Certifications. O.C.G.A. Title 14 designates the Secretary of State as Ex Officio Corporation Commissioner. The Secretary of State is the granting authority for all Georgia ("domestic") corporations, limited partnerships, and limited liability companies, and for all out-of-state ("foreign") corporations, limited partnerships,

and limited liability companies transacting business in Georgia. The Corporations Division is designated by the Secretary of State to carry out the provisions of O.C.G.A. Title 14. The functions carried out by this subdivision include the following:

(i) provides certificates of incorporation, certificates of limited partnership, certificates of organization, or certificates of authority to all businesses or persons desiring to incorporate or form corporations, limited partnerships, or limited liability companies in Georgia or do business in Georgia as a foreign corporation, limited partnership, or limited liability company who have filed such intent with the Secretary of State before actually commencing business;

(ii) issues all certificates to proposed new corporations, limited partnerships, and limited liability companies, certifications of fact, and files annual registrations on all domestic and foreign corporations, limited partnerships, and limited liability companies doing business in the State of Georgia. Any further documents, such as of amendment, merger, conversion, dissolution, cancellation, termination or withdrawal documents, filed subsequent to incorporation, formation, or registration are also reviewed, approved and certified by the Secretary of State;

(iii) charters all State banking, banking and trust, and trust companies, and insurance, railroad, canal, navigation, express, and telegraph companies;

(iv) charters credit unions, building and loan, and saving and loan associations; and

(v) maintains the permanent record of all such charter documents.

2. Special Services. This subdivision carries out the following functions:

(i) Service of Process:

(I) acts for the Secretary of State as agent for service of process under a number of statutes when other methods of process have failed or are ineffective, in accordance with O.C.G.A. § 45-13-26, as amended; and

(II) maintains a record of all service of process made upon the Secretary of State.

(ii) Consent to Service:

(I) issues letters of acknowledgement relating to consent to service filings made with the Secretary of State pursuant to O.C.G.A. § 10-1-416, as amended, and maintains a record of such filings; and

(II) maintains a record of consent to service filings submitted to the Department of Agriculture and the Department of Revenue pursuant to O.C.G.A. §§ 2-5-3 and 48-13-35, respectively.

(iii) Cable/Video State Franchise: Issues state franchises to cable service providers and video service providers, and processes subsequent amendments, transfers, renewals, and terminations of state franchises, in accordance with the provisions of the Consumer Choice for Television Act, O.C.G.A. § 36-76-1 et seq., as amended.

(iv) Private Child Support Collector: Registers private child support collectors pursuant to O.C.G.A. § 10-1-393.9 et seq., as amended.

(v) Other Special Service Filings: This subdivision is assigned administrative duties relating to the filing of the following:

(I) development authority resolutions filed pursuant to a number of statutes;

(II) verified statements by foreign entities acting as a trustee in Georgia filed pursuant to O.C.G.A. § 53-12-323, as amended;

(III) agent designation filings by nonresidents acting as trustees in Georgia filed pursuant to O.C.G.A. § 53-12-320, as amended;

(IV) deeds creating trust estate filings filed pursuant to O.C.G.A. § 53-12-152, as amended;

(V) designation of agent for service of process filings filed pursuant to O.C.G.A. § 9-2-25, as amended; and

(VI) mutual aid resource pacts filed pursuant to O.C.G.A. § 25-6-3, as amended.

3. Trademarks. This subdivision:

(i) issues a certificate of registration of trademarks or service marks to applicants seeking to register such marks in the State of Georgia, and who have complied with the provisions of O.C.G.A. 10-1-440 et seq., as amended;

(ii) issues appropriate certificates for registered trademarks or service marks that have been renewed, assigned, or cancelled in accordance with the provisions of O.C.G.A. 10-1-440 et seq., as amended; and

(iii) maintains for public inspection a record of all trademarks or service marks registered or renewed in accordance with the provisions of O.C.G.A. 10-1-440 et seq., as amended.

(d) **Elections Division**. This Division:

1. determines the forms of nomination petitions, ballots and other forms as required by the Georgia Election Code (Ga. L. 1964, Extra Sess., p. 26, et seq., as amended);

2. receives registration statements from political parties and bodies to determine their sufficiency prior to filing in accordance with the provisions of the Georgia Election Code, and receives any disputes concerning such statement;

3. receives and determines the sufficiency of nomination petitions of candidates filing notice of candidacy with the Secretary of State;

4. certifies the official ballot form, together with the official lists of all political party candidates who have been certified to the Secretary of State as qualified candidates for the succeeding primary, and the official lists of all candidates who have filed notices of candidacy with the Secretary of State to the proper superintendents;

5. furnishes to the proper superintendents all forms and supplies as required by Georgia Laws;

6. receives from the superintendents the returns of primaries and elections and canvasses, computes, and publishes the votes cast for candidates;

7. upon request, furnishes a certified copy of any document received in this Division;

8. determines and approves the form of ballots for use in special elections;

9. receives copy of Official Electors List from each County prior to each Primary, General Election and Special Election; furnishes copy upon request to any elector;

10. provides maps of Congressional, State Senatorial and House Districts, Judicial Districts, and County Outline maps;

11. compiles results of each County and Municipal referendum each year and publishes such results in back of Georgia Laws;

12. provides administrative support to the State Election Board;

13. prepares commissions and related documents for issuance by the Governor following election or appointment of all Congressional, State, and County officers, special police officers, and all appointees of the Governor as provided by law;

14. prepares and publishes:

    (i) Georgia Election Code;

    (ii) Georgia Municipal Election Code;

    (iii) Georgia Official Directory of Congressional, State and County Officers;

    (iv) Criminal Code of Georgia; and

    (v) Juvenile Court Code of Georgia;

15. in accordance with Ga. L. 1945, p. 128, handles certifications of Acts of the General Assembly, and compiles, indexes, reproduces, distributes and conveys such laws to permanent storage;

16. each year compiles Municipal and County Home Rule Ordinances, and other information, which is published in the bound volumes of Georgia Laws;

17. maintains a current mailing list of all Congressional, State, and County officers;

18. issues personal identification cards to:

    (i) all Congressional, State, and County officers and their appointees;

    (ii) special police officers; and

    (iii) appointees of the Governor;

19. issues Great Seal certifications for the Governor of the State of Georgia; and

20. conducts election seminars for election and registration officials.

(e) **Professional Licensing Boards Division**.

1. The Professional Licensing Boards Division of the Office of Secretary of State, in accordance with O.C.G.A. § 43-1-1 et seq., as amended, has been established to provide various administrative, financial and investigative functions for the professional licensing boards, under a centralized administrative structure in order to promote efficiency, coordinate policy, and increase public accountability.

2. The Secretary of State appoints a Director of the Professional Licensing Boards Division, whose duties are to:

    (i) bring together and keep all records relating to the professional licensing boards;

(ii) develop, review and monitor budgets of the professional licensing boards;

(iii) develop, revise and standardize, where appropriate, administrative processes and procedures through which supportive services are provided to the boards;

(iv) receive all applications for licenses, with consent of board concerned;

(v) schedule the time and place for examinations;

(vi) provide for investigations and schedule the time and place for all hearings;

(vii) issue certificates upon authority of the professional licensing board concerned;

(viii) collect all fees now required by law in connection with the licensing of trades and professions;

(ix) determine the expiration, renewal, and penalty dates for licenses and certificates issued by the professional licensing boards.;

(x) administer the provisions of the Uniform Athlete Agents Act, O.C.G.A. § 43-4A-1, et seq., as amended; and

(xi) administer the provisions of Registration of Immigration Assistance Act, O.C.G.A. § 43-20A-1 et seq., as amended.

3. The professional licensing boards and advisory groups attached to the Professional Licensing Boards Division of the Office of Secretary of State are as follows:

(i) Georgia Board of Athletic Trainers;

(ii) State Board of Architects and Interior Designers;

(iii) Georgia Auctioneers Commission;

(iv) Georgia State Board of Cemeterians;

(v) Georgia Board of Chiropractic Examiners;

(vi) Georgia State Construction Industry Licensing Board;

(vii) Georgia Composite Board of Professional Counselors, Social Workers, Marriage and Family Therapists;

(viii) Georgia State Board of Cosmetology and Barbers;

(ix) Georgia Board of Examiners of Licensed Dietitians;

(x) State Board of Registration for Professional Engineers and Land Surveyors;

(xi) State Board of Registration for Foresters;

(xii) Georgia State Board of Funeral Service;

(xiii) Georgia State Board of Registration for Professional Geologists;

(xiv) State Board of Hearing Aid Dealers and Dispensers;

(xv) Lactation Consultant Advisory Group;

(xvi) Georgia Board of Landscape Architects;

(xvii) Georgia State Board for the Certification of Librarians;

(xviii) Georgia Board of Massage Therapy;

(xix) Music Therapy Advisory Group;

(xx) Georgia Board of Nursing;

(xxi) Georgia State Board of Nursing Home Administrators;

(xxii) State Board of Dispensing Opticians;

(xxiii) Georgia State Board of Examiners in Optometry;

(xxiv) Georgia State Board of Physical Therapy;

(xxv) State Board of Podiatry Examiners;

(xxvi) Georgia Board of Private Detective and Security Agencies;

(xxvii) Georgia State Board of Examiners of Psychologists;

(xxviii) State Licensing Board for Residential and General Contractors;

(xxix) State Board of Examiners for Speech-Language Pathology and Audiology;

(xxx) Georgia State Board of Occupational Therapy;

(xxxi) Georgia State Board of Registration of Used Car Dealers and Used Motor Vehicle Parts Dealers;

(xxxii) State Board of Veterinary Medicine; and

(xxxiii) State Board of Examiners for Certification of Water and Wastewater Treatment Plant Operators and Laboratory Analysts.

(f) **Securities and Charities Division**. The Secretary of State is Commissioner of Securities by authority of Official Code of Georgia Annotated (O.C.G.A.) Sec. 10-5-1 et seq. The Securities and Charities Division is designated by the Secretary of State to implement the provisions of the Georgia Uniform Securities Act of 2008, as amended (O.C.G.A. Sec. 10-5-1 et seq.), and the Georgia Charitable Solicitations Act of 1988 (O.C.G.A. Sec. 43-17-1 et seq.). Under the direction of the Assistant Commissioner of Securities, this Division:

1. registers broker-dealers, broker-dealer agents, investment advisers, and investment adviser representatives who transact business within or from the State of Georgia;

2. receives applications, determines upon inquiry, examination and inspection that the requirements of the laws have been met, and registers offerings pursuant to the Georgia Uniform Securities Act prior to sales or offers to sell in the State of Georgia;

3. maintains an enforcement staff to investigate alleged violations of the Georgia Uniform Securities Act and the Georgia Charitable Solicitations Act of 1988;

4. issues a certificate of registration to charitable organizations, paid solicitors, and solicitor agents who seek to solicit contributions from persons in this state and who have complied with the relevant provisions of Georgia law.

Cite as Ga. Comp. R. & Regs. R. 590-1-1-.02
Authority: O.C.G.A. § 45-13-1 et seq.
History. Original Rule entitled "Description of Departments" was filed on December 29, 1978 as 590-1-.02; effective January 18, 1979.
Amended: Rule repealed and a new Rule of the same title adopted, and Rule renumbered as 590-1-1-.02. Filed March 30, 1981; effective April 19, 1981.
Amended: Rule repealed and a new Rule of the same title adopted. Filed September 19, 1985; effective October 9, 1985.
Amended: F. June 4, 2018; eff. June 24, 2018.

Rule 590-1-1-.03. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-1-1-.03
Authority: O.C.G.A. § 45-13-1 et seq.
History. Original Rule entitled "Duties of the Secretary of State" was filed on December 29, 1978 as 590-1-.03; effective January 18, 1979.
Amended: Rule repealed and a new Rule of the same title adopted, and Rule renumbered as 590-1-1-.03. Filed March 30, 1981; effective April 19, 1981.

Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-1-1-.04. Ex Officio Membership of the Secretary of State.

The Secretary of State serves as Ex Officio member of the following:

(a) Claims Advisory Board (Chairman);

(b) State Election Board (Chairman);

(c) Governor's Committee on Interstate Cooperation;

(d) State Properties Commission (Secretary);

(e) State Records Committee;

(f) Commission on the Preservation of the State Capitol;

(g) State Commission on the Condemnation of Public Property;

(h) Constitutional Amendment Committee; and

(i) Capitol Art Standards Commission.

Cite as Ga. Comp. R. & Regs. R. 590-1-1-.04
Authority: O.C.G.A. §§ 21-2-30; 28-6-1; 28-5-60; 45-13-70; 50-16-5.1; 50-16-32; 50-16-181; 50-18-92.
History. Original Rule entitled "Ex Officio Membership of the Secretary of State" was filed on December 29, 1978 as 590-1-.04; effective January 18, 1979.
Amended: Rule renumbered as 590-1-1-.04. Filed March 30, 1981; effective April 19, 1981.
Amended: Filed September 19, 1985; effective October 9, 1985.
Amended: F. June 4, 2018; eff. June 24, 2018.

Chapter 590-2. ADMINISTRATIVE PROCEDURE DIVISION.

Subject 590-2-1. RULES OF GENERAL APPLICABILITY.

Rule 590-2-1-.01. Control Numbers; Department Numbers.

(1) Upon request, each State agency, board, bureau, commission, department, activity, or officer authorized by law expressly to make rules and regulations or to determine contested cases shall be assigned a control number, in numerical order when possible, such as: 590 Secretary of State.

(2) For rule-making purposes, the agency title is eliminated from the control number, and the control number is followed by a dash (-), as follows: 590-. Should a rule-making agency have in its organization one or more departments, divisions, or primary subject matters, such departments, divisions, or primary subject matters shall be designated by a number following the control, and this number shall be followed by a dash (-), such as: 590-2- (Office of Secretary of State, Administrative Procedure Division).

(a) Subject matter under departments, divisions, or primary subject shall have a subsequent number followed by a dash (-), such as: 590-2-1- ("590 is the control number,"2" indicates the second division of the agency; "1" indicates the first chapter in Division 2).

Cite as Ga. Comp. R. & Regs. R. 590-2-1-.01
Authority: O.C.G.A. § 50-13-1*et seq*.
History. Original Rule entitled "Numbering System" adopted as R. 590-2-.01. F. and eff. June 21, 1965.
Amended: Rule repealed and a new Rule of the same title adopted. F. Nov. 1, 1965; eff. Nov. 20, 1965.
Amended: Rule repealed and a new Rule of the same title adopted. F. June 29, 1966; eff, July 18, 1966.
Amended: Rule repealed and a new Rule entitled "Control Numbers; Department Numbers" adopted. F. Dec. 29, 1978; eff. Jan. 18, 1979.
Amended: Rule repealed and a new Rule of the same title adopted, and Rule renumbered as 590-2-1-.01. F. April 10, 1981; eff. April 30, 1981.
Note: Correction of non-substantive typographical error in Rule on SOS Rules and Regulations website. "**History.** Amended: Rule repealed and anew Rule of the same title adopted. F. Nov. 1, 1965; eff. Nov. 20, 1965." corrected to "**History.** Original Rule entitled "Numbering System" adopted as R. 590-2-.01. F. and eff. June 21, 1965. Amended: Rule repealed and a new Rule of the same title adopted. F. Nov. 1, 1965; eff. Nov. 20, 1965." Effective June 24, 2018.
Amended: F. June 4, 2018; eff. June 24, 2018.

Rule 590-2-1-.02. Numbering System.

(1) Each rule shall be given a number preceded by a decimal (.) which shall follow the chapter number, such as: 590-2-1-.01, 590-1-2-.02, etc.

(a) All rules shall be numbered consecutively.

(2) If a rule has only one paragraph, that paragraph shall be unnumbered and shall follow the rule title, which is followed by a period (.).

(3) If a rule has more than one main paragraph, each paragraph shall be indented to the third space and shall be numbered (1), (2), (3), etc. consecutively

(4) If a rule has only one main paragraph and one or more subparagraphs, the main paragraph shall be unnumbered and shall follow the rule title, which is followed by a period (.). The first line of all subparagraphs shall be indented to the third space and all following lines shall revert to the margin.

(a) Subparagraphs shall be numbered (a), (b), (c), etc. consecutively.

1. If there is only one subparagraph under a main paragraph, such paragraph shall be numbered (a).

    (i) Should subparagraphs numbered (a), (b), (c), etc., exceed the letters of the alphabet (a through z), then subsequent like subparagraphs shall be numbered (aa), (bb), (cc), etc.

(5) If a rule is divided into many separate paragraphs, such paragraphs shall be numbered as follows:

(1), (2), etc. (Main paragraphs);

(a), (b), etc. (Subparagraphs under main paragraph);

1., 2., etc. (Subparagraphs under (a),(b), etc.);

(i), (ii), etc. (Subparagraphs under 1., 2., etc.);

(I), (II), etc. (Subparagraphs under (i), (ii), etc.);

I., II., etc. (Subparagraphs under (I), (II), etc.):

A., B., etc. (Subparagraphs under I., II., etc.);

(A), (B), etc. (Subparagraphs under A., B., etc.);

Example:

(1) (Main paragraph);

(a) (Subparagraph under main paragraph);

1. (Subparagraph under (a));

2. (Subparagraph under (a));

(b) (2nd paragraph under (1));

1. (Subparagraph under (b));

(i) (Subparagraph under 1.);

(ii) (2nd subparagraph under 1.);

(I) (Subparagraph under (ii));

(II) (2nd subparagraph under (ii));

I. (Subparagraph under (II);

A. (Subparagraph under I.);

(A) (Subparagraph under A.);

(2) (2nd main paragraph)

(a) (Subparagraph under main paragraph);

1. (Subparagraph under (a))

Etc.

(6) All paragraphs shall use the same indenture and margin as main paragraphs.

Cite as Ga. Comp. R. & Regs. R. 590-2-1-.02
Authority: O.C.G.A. § 50-13-1 et seq.
History. Original Rule entitled "Control Number" was filed and effective on June 21, 1965 as 590-2-.02.
Amended: Rule repealed and a new Rule entitled "Control Number-Department Numbers" adopted. Filed November 1, 1965; effective November 20, 1965.
Amended: Rule repealed and a new Rule of the same title adopted. Filed June 29, 1966; effective July 18, 1966.
Amended: Rule repealed and a new Rule entitled "Numbering System" adopted. Filed December 29, 1978; effective January 18, 1979.
Amended: Rule 590-2-.02 repealed and a new Rule of the same title adopted and Rule renumbered as 590-2-1-.02. Filed April 10, 1981; effective April 30, 1981.
Amended: F. June 4, 2018; eff. June 24, 2018.

Rule 590-2-1-.03. Rules Filed On or Before July 21, 1965.

Within twenty (20) days after July 21, 1965, each Agency shall file in the Office of Secretary of State an original and two (2) copies of all rules in effect prior to the effective date of the Georgia Administrative Procedure Act (July 1, 1965).

Cite as Ga. Comp. R. & Regs. R. 590-2-1-.03
Authority: Ga. L. 1964, p. 338, 344; Ga. L. 1965, pp. 283, 287 (Ga. Code Ann., Ch. 3A-1).
History. Original Rule entitled "Style and Form for Filing Rules" was filed and effective on June 21, 1965 as 590-2-.03.
Amended: Rule repealed and a new Rule of the same title adopted. Filed November 1, 1965; effective November 20, 1965.
Amended: Rule repealed and a new Rule of the same title adopted. Filed June 29, 1966; effective July 18, 1966.
Amended: Rule repealed and a new Rule entitled "Rules Filed On or Before July 21, 1965" adopted. Filed December 29, 1978; effective January 18, 1979.

Amended: Rule renumbered as 590-2-1-.03. Filed April 10, 1981; effective April 30, 1981.

Rule 590-2-1-.04. Rules Filed After March 20, 2003.

(1) Number of Filings. After March 20, 2003, an agency shall electronically file one original of all new rules and amendments to rules. Such rules and/or amendments shall be certified by the authority authorized to certify same on a separate page, termed "Certification Page," in accordance with subparagraph (b) of this paragraph (1), and in accordance with subparagraph (8)(a) of this Rule.

(a) Authority Signature. The authority signature shall be notarized and the notary seal shall appear.

(b) Original Copy. The agency shall transmit such filing by electronic mail. Electronic mail filings must be submitted from an agency's electronic mail communications system. Filings submitted by electronic mail shall be in the word processing format of Microsoft Word and presented in the format and style in accordance with subparagraph (b) of this paragraph (1), and in accordance with subparagraph (8)(a) of this Rule. In such case, the electronic mail filings shall be accompanied by a faxed or scanned copy of one original Certification Page per chapter with appropriate signatures and one letter of transmittal.

(2) Letter of Transmittal. All rules and amendments shall be accompanied by a letter, termed "letter of transmittal," listing the rule/s concerned (whether in one chapter or in several chapters), and stating the name and telephone number of the person to be contacted should questions arise concerning said rules or amendments.

(a) Only one (1) letter of transmittal is required regardless of the number of rules or chapters being filed at the same time.

(b) The letter of transmittal shall be transmitted via email.

(3) Rule Title. Each rule shall have a catchline, or title, defining the substance of said rule. This catchline, or title, shall follow the rule number; each main word of title shall be capitalized; minor words shall not be capitalized.

(a) The title of any paragraph or subparagraph under a rule may be displayed in boldface type.

(4) Number of Rules in a Chapter. A chapter may contain only one rule, or may contain many rules relating to the same general subject matter.

(a) Immediately beneath the last line of each rule shall appear the authority pursuant to which such rule was adopted (in accordance with subsection (a) of Section 6 of the Georgia Administrative Procedure Act) (as appears following these rules and regulations).

(5) Citing Amendment to an Existing Rule. If a rule has been repealed and a new rule adopted in lieu thereof, the rule number shall be cited; if the rule title is changed, both the former title and the new title shall be cited.

(a) Only the rule/s (or part/s of a rule) being amended shall appear on the Table of Contents page and any following pages.

(6) Citing Repeal of an Existing Rule. If a rule (or part/s of a rule) is repealed and no new rule (or part/s of a rule) adopted, such action shall be cited on the Certification Page in accordance with paragraph (1) and subparagraph (8)(a) of this Rule.

(7) Change of Title of Agency. At such time as the title of an agency (State board, commission, department, etc.) is changed by law, certification shall be filed with the Office of Secretary of State stating the former title and the new title, and stating the legal authority for such change.

(8) Illustration of Forms. All new rules, amendments, repeals, or emergency rules filed after March 20, 2003, shall use the following forms:

(a) Certification Page. The following certification page shall be filed via fax or email with the rule/s attached thereto, except in the case of repealed rule/s which shall be filed in accordance with paragraph (6) of this Rule. If certification page is faxed, it must be submitted within 24 hours of receipt of the electronic mail filing.

Certification Page (Example):

CERTIFICATION OF ADMINISTRATIVE RULES

FILED WITH THE SECRETARY OF STATE

BRIAN P. KEMP (Name of current Secretary of State in this space)

(Pursuant to O.C.G.A. Secs. 50-13-3, 50-13-4 and 50-13-6.) I do hereby certify that the attached (chapter; new rule/s; amendment/ s; repeal/s) is a correct copy (are correct copies) as promulgated and adopted on the _____ day of _____, 20____.

(NAME OF DEPARTMENT IN CAPITAL LETTERS in this space.)

(Filing date in this space.)

(In this space, describe the action taken and identify the chapter, or rule/s, or rule part/s. If a chapter is repealed and a new chapter adopted in lieu thereof with a different title, state the former title and the new title; if a chapter is repealed and no new chapter adopted, state the title of the repealed chapter and declare same repealed in its entirety and no new chapter adopted; if a rule is repealed and no

new rule adopted, state the title of the rule and declare same repealed in its entirety, such as: "Rule 590-2-1-.02, entitled "Numbering System," is hereby repealed in its entirety.")

(In this space shall appear the statutory rulemaking authority.)

_____

(Signature of Officer authorized to promulgate rules and regulations, or his deputy.)

Sworn to and subscribed before me this

_____ day of _____, 20_____.

_____

(Signature of Notary Public)

(Notary Public Seal)

(End of Form)

(b) Table of Contents Page (Example):

RULES

OF

OFFICE OF SECRETARY OF STATE

ADMINISTRATIVE PROCEDURE DIVISION

CHAPTER 590-2-1

RULES OF GENERAL APPLICABILITY

TABLE OF CONTENTS

590-2-1-.01 Control Numbers; Department Numbers

590-2-1-.02 Numbering System

590-2-1-.01 Control Numbers; Department Numbers

(1) Upon request, each State board, bureau, commission, department, activity, or officer. . . . . ., etc.

(2) For rulemaking purposes, the agency title is eliminated from the control number. . . . . ., etc.

Authority: O.C.G.A. Secs. 50-13-3, 50-13-4, 50-13-6.

590-2-1-.02 Numbering System

(1) Each rule shall be given a number preceded by a decimal (.) which shall follow the chapter number.

(a) All rules shall be numbered consecutively.

(2) If a rule has only one paragraph, that paragraph shall be unnumbered and shall follow the rule title, which is followed by a period (.).

(3) If a rule has more than one main paragraph, each paragraph . . . . . ., etc.

Authority: O.C.G.A. Secs. 50-13-3, 50-13-4, 50-13-6.

(End of Form)

1. On the Table of Contents page, the chapter title shall appear at upper left of page and chapter number shall appear at upper right of page; if there is a following page, the chapter number shall appear at upper left of page and chapter title shall appear at upper right of page, etc.

(9) If more than one chapter (or part/s of a chapter) is filed at the same time, a separate certification page shall be filed for each chapter.

Cite as Ga. Comp. R. & Regs. R. 590-2-1-.04
Authority: O.C.G.A. § 50-13-1 et seq.
History. Original Rule entitled "Style and Form for Filing Future Rules and Amendments" adopted as R. 590-2-.04. F. and eff. June 21, 1965.
Repealed: New Rule of same title adopted. F. Nov. 1, 1965; eff. Nov. 20, 1965.
Repealed: New Rule of same title adopted. F. June 29, 1966; eff. July 18, 1966.
Repealed: New Rule entitled "Rules Filed After July 21, 1965" adopted. F. Dec. 29, 1978; eff. Jan. 18, 1979.
Repealed: New Rule of same title adopted as R. 590-2-1-.04. F. Apr. 10, 1981; eff. Apr. 30, 1981.
Amended: F. Aug. 13, 1985; eff. Sept. 2, 1985.
Repealed: New Rule entitled "Rules Filed After August 30, 2000" adopted. F. Aug. 10, 2000; eff. Aug. 30, 2000.
Repealed: New Rule entitled "Rules Filed After March 20, 2003" adopted. F. Feb. 28, 2003; eff. Mar. 20, 2003.
Amended: F. June 4, 2018; eff. June 24, 2018.

Rule 590-2-1-.05. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-2-1-.05
Authority: Ga. L. 1964, p.338, *et seq.*, as amended; Ga. L. 1965, p. 283, *et seq.*, (Ga. Code Ann., Ch. 3A-1).
History. Original Rule entitled "Emergency Rules" was filed and effective on June 21, 1965 as 590-2-.05.
Amended: Rule repealed and a new Rule of the same title adopted. Filed November 1, 1965; effective November 20, 1965.
Amended: Rule repealed and a new Rule of the same title adopted. Filed June 29, 1966; effective July 18, 1966.
Amended: Rule repealed and a new Rule of the same title adopted. Filed December 29, 1978; effective January 18, 1979.
Amended: Rule repealed. Filed April 10, 1981; effective April 30, 1981.

Subject 590-2-2. EMERGENCY RULES.

Rule 590-2-2-.01. Emergency Rules.

(1) All emergency rules shall be filed in accordance with the general requirements of Rule 590-2-1-.04.

(2) In accordance with subsection (b) of Section 4 of the Georgia Administrative Procedure Act, the nature of the emergency shall be included in the statement of the reasons for adoption of the emergency rule/s, and shall appear on either the Certification page or the Table of Contents page. (When necessary, a second, or following, page may be added to the Certification page.)

(3) Emergency rules shall be numbered as follows:

  (a) The control number shall be followed by the division (if applicable) and chapter numbers; the last number shall be followed by a dash (-) and the dash shall be followed by a zero (0), which shall be followed by a decimal (.). (Example: 590-2-1-0.).

(4) Emergency Rules shall be numbered consecutively, and the number shall follow the decimal, as described in "Example" of subparagraph (3)(a) of this Rule. (Example: 590-2-1-0.1, 590-2-1-0.2, etc.)

  (a) Any subsequent emergency rule will be numbered the next consecutive number. For example: the first emergency rule adopted by the Secretary of State would be numbered 590-4-1-0.1; should he adopt an emergency rule at a later date, such emergency rule would be numbered 590-4-1-0.2, etc.

(5) If a chapter is adopted as an emergency rule, the numbering described in paragraph (4) of this Rule shall apply, and the rules contained therein shall be numbered as in the following example: 590-2-1-0.1-.01, 590-2-1-0.1-.02, etc.

(6) If only a rule, or several rules, within a chapter is/are adopted as (an) emergency rule/s, such rule/s shall be numbered in accordance with paragraph (5) of this Rule.

(a) If only part/s of a Rule is involved, same shall be so indicated, such as: 590-2-1-0.1-.01(1)(a) 7.; 590-2-1-0.1-.01(2)(b) 6. (ii); however, the emergency rule should be identified as: "Emergency Rule 590-2-1-0.1, containing Rules 590-2-1-0.1-.01(1)(a)7. and 590-2-1-0.1-.01(2)(b) 6. (ii)."

(7) If more than one chapter is adopted as an emergency rule at the same time, they shall be numbered consecutively. (Example: 590-2-1-0.1, 590-2-2-0.2, 590-4-1-0.3, etc.)

(8) Certification page for emergency rule/s as follows:

Certification page for emergency rules:

CERTIFICATION OF ADMINISTRATIVE RULES

FILED WITH THE SECRETARY OF STATE

BRIAN P. KEMP (Name of current Secretary of State in this space)

(Pursuant to O.C.G.A. Secs. 50-13-3, 50-13-4 and 50-13-6.)

I do hereby certify that the attached emergency rule is a correct copy as promulgated and adopted on the _____ day of _____, 20__.

(NAME OF DEPARTMENT IN CAPITAL LETTERS in this space)

(Filing date in this space.)

(In this space, identify the emergency rule and declare effective date; whether the agency desires the emergency rule to become effective on the date of adoption or at a later date, and specify the length of time the agency desires the emergency rule to remain in effect, but in no case can same remain in effect for a period longer than 120 days, as specified by subsection (b) of Section 4 of the Georgia Administrative Procedure Act.)

(In this space shall appear the statutory rule-making authority.)

(In this space, declare the nature of the emergency; if too lengthy, may be declared on a following page.)

_____

(Signature of Officer authorized to promulgate and adopt rules and regulations, or his deputy.)

Sworn to and subscribed before me this _____ day of _____, 20___.

_____

(Signature of Notary Public)

(Notary Public Seal)

(End of Form)

Cite as Ga. Comp. R. & Regs. R. 590-2-2-.01
Authority: O.C.G.A. § 50-13-1*et seq*.
History. Original Rule entitled "Emergency Rules" was filed on April 10, 1981; effective April 30, 1981.
Amended: Filed September 19, 1985; effective October 9, 1985.
Amended: F. June 4, 2018; eff. June 24, 2018.

Chapter 590-3. CEMETERIES, PRENEED DEALERS, AND MERCHANDISE DEALERS.

Subject 590-3-1. RULES OF GENERAL APPLICABILITY.

Rule 590-3-1-.01. Definitions.

(1) As used herein all citations to "the Act" refer to the Georgia Cemetery and Funeral Services Act of 2000, as set forth in Chapter 14 of Title 10 of the Official Code of Georgia Annotated.

(2) As used in the Act and herein,"care and maintenance", in addition to those activities described in O.C.G.A. Sec. 10-14-3(6), which are incorporated herein, shall be defined as maintaining the cemetery in a reasonable condition, which shall include leveling of the grounds where interments have been made, sodding or planting of grass over interments when graves are closed, reasonable care of grass and other ground cover, subject to climatic and soil conditions, removal of all debris, regular mowing and edging, repair of potholes in pavement, resulting in a well kept appearance at all times. It shall be further defined as maintaining buildings, structures and other improvements located on cemetery property in accordance with all applicable laws and codes. It shall be further defined as maintaining the cemetery property free of inoperative vehicles and machinery, unless stored in a closed structure. It shall further be defined as appropriately marking each entrance to the cemetery property from any public road, with at least one such entrance having a sign indicating the name of the cemetery, and the location of the office for such cemetery if not located on that property.

(3) As used in the Act and herein, all references to "developed cemetery property" shall be defined as that portion of the dedicated cemetery property that has been platted and pinned for the intended use of the permanent internment of human remains or that portion of the dedicated cemetery property that has been platted and pinned and is currently being used for the permanent internment of human remains.

(4) As used in the Act and herein, all references to "the Division Director" or "The Director" shall refer to the Director of the Securities and Business Regulation Division of the Office of the Secretary of State, or such other person as the Secretary of State may by order designate.

(5) As used in the Act and herein,"encumbrance" shall be defined as a claim, lien, charge, or liability attached to and binding real property; *e.g.*, a mortgage; judgment lien; lease; security interest; easement or right of way; accrued and unpaid taxes.

(6) As used in the Act and herein,"immediately" shall mean by close of business on the day following a filing, which includes but is not limited to, an amendment, a modification, an action or a request.

(7) As used in the Act and herein, "insolvent" shall be defined as either having liabilities that exceed assets or obligations that cannot be met as they mature.

(8) As used in the Act and herein,"promptly" shall be defined as seven (7) to ten (10) days following a filing, which includes but is not limited to, an amendment, a modification, an action or a request.

(9) As used herein, all references to "the Secretary of State" or "Secretary of State" refer to the Secretary of State of the State of Georgia.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.01
Authority: O.C.G.A. Secs. 10-14-14, 44-3-139.
History. Original Rule entitled "Definitions" was filed as Emergency Rule 590-3-1-0.8-.01 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.
Amended: Filed December 20, 1988; effective January 9, 1989.
Repealed: New Rule, same title adopted. F. July 26, 2000; eff. August 15, 2000.
Amended: F. Dec. 11, 2003; eff. Dec. 31, 2003.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-1-.02. Delegation.

The Director is empowered to sign all documents, make all decisions, and perform all acts under the Georgia Cemetery and Funeral Services Act of 2000, in the same manner and with the same authority as is the Secretary of State. All acts of the Director are of the same force and effect as such acts would be if performed by the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.02
Authority: O.C.G.A. Secs. 10-14-14, 44-3-139.
History. Original Rule entitled "Delegation to Division Director" was filed as Emergency Rule 590-3-1-0.8-.02 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.
Amended: Rule retitled "Delegation." Filed December 20, 1988; effective January 9, 1989.
Repealed: New Rule, same title, adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-1-.03. Administrative Declaratory Rulings; No-Action Letters; Informal Interpretations.

(1) Declaratory Rulings.

(a) Availability. Any person whose legal rights will be adversely impacted with or impaired by the application of any statutory provision or any rule or order of the Secretary of State may petition the Secretary of State and request a declaratory ruling thereon. The Secretary of State will not render advisory opinions, resolve questions which have become moot or are abstract or hypothetical or otherwise act hereunder except with respect to such actual controversies or other cases upon which a superior court would be required to act under Chapter 4 of Title 9 of the Official Code of Georgia, relating to declaratory judgments.

(b) Form of Petition. Each such petition shall be filed with the Secretary of State in writing and shall state:

1. the name and mailing address of the petitioner;

2. the full text of the statute, rule, or order upon which a ruling is requested;

3. a statement of all pertinent and existing facts necessary to a determination of the applicability of the quoted statute or rule;

4. the petitioner's contention, if any, as to the aforesaid applicability with citation of legal authorities, if any, which authorizes, supports or requires a decision in accordance therewith; and

5. a statement setting forth in detail the petitioner's interest in the matter and why and how the petitioner is uncertain or insecure with respect to his, her or its rights. The petition shall be verified under oath by the petitioner, or on behalf of the petitioner by a person legally authorized to represent the petitioner.

(c) Proceedings on petition. If the Secretary of State determines that a decision can be rendered on the face of the petition without further proceedings, he or she shall

render a summary decision thereon. Otherwise, all parties known by the Secretary of State to have a legal interest in the matter shall be notified and given an opportunity to be heard in a manner determined by the Secretary of State.

(2) No-Action Letters.

(a) Availability.Any person may request in writing a statement from the Secretary of State's staff that, on the basis of the facts stated in such written request, the staff would not recommend enforcement action. The Secretary of State's staff will not respond to requests related to unnamed companies or persons or to hypothetical situations.

(b) Form of No-Action Request. Each such no-action request shall be filed with the Secretary of State in writing and shall:

1. state the specific subsection of the particular statute or rule to which the request pertains;

2. provide the names of the company or companies or individual(s) and all other persons involved;

3. limit the request to the particular situation involving the problem at hand and not attempt to include every possible type of situation which may arise in the future;

4. state concisely and to the point all of the facts necessary to reach a conclusion in the matter; and

5. indicate why the requesting party thinks a problem exists, indicate the requesting party's opinion in the matter, and indicate the basis for the requesting party's opinion.

(3) Informal Interpretations.Any request presented in any manner that does not strictly comply with the provisions of paragraphs (1) or (2) above shall not be deemed to be filed as either a petition for declaratory ruling or request for a no-action letter and shall be dealt with in any manner that the Secretary of State may deem appropriate, including failing to respond.

(4) Fees.The Secretary of State may establish and charge fees as provided in the fee schedule published and maintained by the Secretary of State, for the issuance of any declaratory ruling, no-action letter, or informal interpretation. Said fee(s) may be changed by the Secretary of State by publishing a fee schedule notice and posting such notice in his or her office for a period of not less that thirty (30) days.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.03
Authority: O.C.G.A. Secs. 10-14-14, 44-3-139
History. Original Rule entitled "Administrative Declaratory Rulings; No-Action Letters; Informal Interpretations"

was filed as Emergency Rule 590-3-1-0.8-.03 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.
Repealed: New Rule, same title adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-1-.04. Petition for Adoption of Rules.

(1) Form of Petition. Each petition for adoption of rules made pursuant to the Georgia Administrative Procedure Act shall be filed in writing with the Securities and Business Regulation Division of the Secretary of State's office and shall state:

(a) The name and post office address of the petitioner;

(b) The full text of the rule requested to be amended or repealed, or the full text of the rule desired to be promulgated;

(c) A paragraphed statement of the reason such rule should be amended, repealed, or promulgated, including a statement of all pertinent existing facts as to petitioner's interest in the matter; and

(d) Citations of legal authorities, if any, which authorize, support, or require the action requested by petitioner. The petition should be verified under oath by, or on behalf of the petitioner by a person legally authorized to represent the petitioner.

(2) Proceeding on Petition. Upon receipt of the petition, the Secretary of State shall decide upon the action to be taken. Within sixty (60) days after receipt of the petition, the Secretary of State shall inform the petitioner by mail of the decision reached, and shall either decline to take the action requested, stating his reasons for so declining, or shall initiate rule-making or rule-changing proceedings in accordance with the Georgia Administrative Procedure Act.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.04
Authority: O.C.G.A. Secs. 10-14-14, 44-3-139
History. Original Rule entitled "Petition for Adoption of Rules" was filed as Emergency Rule 590-3-1-0.8-.04 on July 7, 1983, effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.
Amended: Filed December 20, 1988; effective January 9, 1989.
Repealed: New Rule, same title adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-1-.05. Contested Cases.

(1) Contested Cases. Contested cases shall be heard by the Secretary of State, the Division Director or his or her designated representative pursuant to the Georgia Administrative Procedure Act and shall be conducted in accordance with the procedures provided therein, the procedures set forth in section 10-14-23 of the Act, and the following procedures:

(a) Any person who is legally entitled to contest a ruling or order of the Secretary of State may do so by filing with the Secretary of State a request for hearing which shall contain the following:

1. a title which indicates the nature of the proceedings;

2. the complete name(s) and address(es) of the person(s) on whose behalf the request is filed;

3. the name(s) and address(es) of all other persons known to have a legal interest in the proceedings;

4. if the person(s) on whose behalf the request is filed are represented by counsel, the name and address of counsel;

5. a clear and concise statement of the facts upon which the contested case arises;

6. a prayer setting forth the relief sought; and

7. a statement of the grounds upon which the person(s) contend(s) he, she, it or they is (are) entitled to the relief sought.

(b) To be entitled to a hearing as a matter of right, a person must, within thirty (30) days of delivery of a notice of opportunity for hearing in the manner prescribed by section 10-14-23(b) of the Act, file with the Secretary of State a request for hearing as described in paragraph (a) above. The Secretary of State may, in his or her discretion, allow extensions of time and amendments to requests.

(c) Responses to requests for hearing. The Secretary of State will respond to all requests for hearings with a notice scheduling a hearing or with an order denying the request for hearing and stating the reasons for the denial.

(d) The Secretary of State may, without request by the party who is legally entitled to contest a ruling or order, schedule a hearing and require that the party appear. Failure by the party to appear for the hearing shall be considered a default of the contested case and will result in the entry of the order proposed by the Secretary of State and accompanying the notice of opportunity for hearing.

(2) Informal conference.

(a) A party who requests a hearing as provided in (1)(a) above will be accorded a formal hearing pursuant to the Georgia Administrative Procedure Act and section 10-14-23 of the Act. If a party desires, he, she or it may request an informal conference with the Secretary of State or his or her representative in lieu of, or prior to, a formal hearing.

(b) The receipt by the Secretary of State of a written request for an informal conference will toll until the date that such conference is scheduled by the Secretary of State, and the subsequent date, if any, to which it is continued by the Secretary of State, the running of the times for requesting and setting hearings which are specified in Code section 10-14-23 of the Act. In determining the number of days which have run, neither the day on which the request for informal conference is received by the Secretary of State nor the day on which the conference is scheduled shall be counted.

(c) The informal conference shall begin with a telephonic or live meeting between the Secretary of State's staff and the party requesting the informal conference or on whose behalf the informal conference was requested. The person entitled to an informal conference may be represented by counsel who may appear at the informal conference with the party or in the party's presence. The informal conference may remain open until such time that the matter is resolved or the informal conference is terminated by order of the Secretary of State.

(3) Any written request for conference or hearing which is not in the form specified in paragraph (a) above and does not specifically request a formal hearing will be deemed a request for informal conference and shall be acted on as such. However, if after the Secretary of State terminated the informal conference by order, a party requests a hearing, and it appears to the Secretary that, in an effort to stall proceedings, the party has purposefully failed to comply with the form specified in paragraph (1)(a) above, the Secretary may at his or her discretion schedule a formal hearing.

(4) A written order of the Secretary of State issued pursuant to section 10-14-23(f) of the Act may, in the discretion of the Secretary of State, be issued in the form of a consent order, of a letter of undertaking or of an order for a plan of compliance.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.05
Authority: O.C.G.A. Secs. 10-14-14, 44-3-139, 44-3-147.
History. Original Rule entitled "Contested Cases" was filed as Emergency Rule 590-3-1-0.8-.05 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.
Repealed: New Rule, same title adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-1-.06. Records.

(1) All applications, records, correspondence, reports and other documents filed with or maintained by the Secretary of State pursuant to the various provisions of the Act or these Rules may be retained in original form or by means of microfilm, microfiche, microphotographic reproduction, photographic reproduction, word processing, computerization, data storage or other acceptable reproductive methods.

(2) All persons registered or required to be registered with the Secretary of State which must maintain correspondence, records, reports and other documents pursuant to various provisions of the Act or these Rules may retain such information in original form or by means of microfilm, microfiche, microphotographic reproduction, photographic reproduction, word processing, computerization, data storage or other acceptable reproductive methods.

(3) All books, records, correspondence, reports, or other documents produced pursuant to a subpoena or an order to produce issued by the Secretary of State may be destroyed by order of the Secretary of State if a demand, once the investigative file is closed, is not made by the person producing such records at the time he, she, or it produces the records.

(4) Any photographic, microphotographic, or computer reproduction of any original writing or record filed with or maintained by the Secretary of State shall be deemed to have been made in the regular course of business. Such reproduction shall be subject to certification pursuant to Code Section 10-14-27 of the Act.

(5) Electronic Signatures.

(a) The Secretary of State may direct his or her staff to affix his or her electronic signature to any document to which the Secretary of State has the authority to affix his or her manual signature. Such electronic signature shall be of the same force and effect as the Secretary of State's manual signature.

(b) The Division Director may direct the Secretary of State's staff to affix his or her electronic signature to any document to which the Division Director has the authority to affix his or her manual signature. Such electronic signature shall be of the same force and effect as the Division Director's manual signature.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.06
Authority: O.C.G.A. Secs. 10-14-14, 44-3-139.
History. Original Rule entitled "Records" was filed as Emergency Rule 590-3-1-0.8-.06 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.
Repealed: New Rule, same title adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-1-.07. Confidentiality.

(1) Except as provided in the Act and these Rules and Regulations, all information and documents filed with, or obtained by, the Secretary of State are public information and are available for public examination.

(2) The following information and documents do not constitute public information under the Act and these Rules and Regulations and shall be confidential:

(a) Information or documents obtained in connection with an investigation under Code Section 10-14-15;

(b) Documents prepared by the Secretary of State's staff in connection with an investigation under Code Section 10-14-15 including subpoenas, orders to produce records, staff reports, and reports and summaries of investigations;

(c) Information or documents filed with the Secretary of State in connection with a registration statement or exemption filing under the Act, which constitute or contain trade secrets or constitute or contain commercial or financial information, which the person is entitled to assert, and has asserted, a claim of confidentiality or privilege as authorized by law; and

(d) Any document or record specifically designated as confidential in accordance with the Act or the Rules and Regulations promulgated thereunder.

(3) All investigations and investigative proceedings shall be private, unless the Secretary of State determines that the protection of the public requires that all or part of an investigation or investigative proceeding should be made public.

(4) Any state, federal or law enforcement agency receiving information or documents pursuant to Code Section 10-14-15, must make the representation required by that Code Section in the form of an access letter. The access letter shall be addressed to the Secretary of State or his or her designee and signed by someone at the requesting agency in a position to guarantee the aforementioned representation. Access letters and the Secretary of State's response shall be deemed part of an investigative file and shall be confidential.

(5) The Secretary of State may disclose information or documents obtained in connection with an investigation under the Act to the extent provided in the Act and these Rules and Regulations. The Secretary of State may further disclose such information if disclosure is for the purpose of a civil, administrative or criminal investigation or proceeding. Any state, federal or law enforcement agency receiving such information or documents must represent that, under the applicable law, protections exist to preserve the integrity, confidentiality, and security of the information.

(6) Notices and proposed administrative orders and administrative orders issued by the Secretary of State shall constitute public information under the Act and these Rules and Regulations.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.07
Authority: O.C.G.A. Secs. 10-14-14, 10-14-15, 44-3-139.
History. Original Rule entitled "Confidentiality of Investigations" was filed as Emergency Rule 590-3-1-0.8-.07 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.
Amended: Filed December 20, 1988; effective January 9, 1989.
Repealed: New Rule, same title adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule entitled "Confidentiality" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-1-.08. Confidentiality of Audits.

All examinations and audits of the financial records of a cemetery or preneed dealer conducted by the Secretary of State shall be confidential and shall not be subject to public inspection, unless the Secretary of State determines it to be in the public interest to release examinations and audits, or unless otherwise required by law.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.08
Authority: O.C.G.A. Secs. 10-14-14, 44-3-139, 44-3-140.
History. Original Rule entitled "Confidentiality of Audits" was filed as Emergency Rule 590-3-1-0.8-.08 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by Agency.
Repealed: New Rule, same title adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-1-.09. Change of Ownership.

(1) Pursuant to § 10-14-9(c)(1) of the Act, the Secretary of State must be notified when any cemetery or preneed dealer is sold or the ownership is otherwise transferred, or a controlling interest is sold or transferred.

(2) The following documents must be filed as an application for registration by the new owner with the Secretary of State prior to the new owner operating said cemetery or preneed dealer:

   (a) An original application for registration executed by the prospective buyer, with all fees required by law, on a form prescribed by the Secretary of State;

(b) If necessary, a written request for a change of trustee, escrow agent, or account depository, in accordance with any controlling provision of a trust agreement or an escrow agreement; and

(c) Information sufficient to demonstrate that the prospective seller is not indebted to the preneed escrow account or to the perpetual care trust account. Such information may include but is not limited to:

1. A current financial report for the perpetual care trust fund and for the preneed escrow account prepared by a certified public accountant or a public accountant, reflecting the cemetery's liability to each account and the current balances of each account; or a joint financial report for the perpetual care trust fund and the preneed escrow account, the accuracy of which is represented by both the previous cemetery owner and the new cemetery owner reflecting the total liability to each account and the current balance of each account;

2. Verifications from the depositories showing the actual account balances for the perpetual care trust fund and the preneed escrow account as of the date of closing;

3. A statement from the trustee of the perpetual care trust fund stating that the perpetual care trust account is not encumbered;

4. A statement from the escrow agent of the preneed escrow account stating that the preneed escrow account is not encumbered; and

5. A copy of the proposed contract for sale of the cemetery between the prospective seller and the prospective buyer which may have the sales price deleted.

(3) When, based on the documents filed, the Secretary of State finds the documents to be satisfactory proof that the prospective seller is not indebted to any account, and the new owner otherwise satisfies the statutory requirements, the Secretary of State shall issue a new certificate of registration to the prospective buyer.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.09
Authority: O.C.G.A. Secs. 10-14-14, 44-3-135, 44-3-139.
History. Original Rule entitled "Change of Ownership" was filed as Emergency Rule 590-3-1-0.8-.09 on July 7, 1983; effective July 11, 1983, the date of adoption to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency. Said Emergency Rule expired October 28, 1983.
Amended: Rule of the same title adopted. Filed October 24, 1983; effective November 13, 1983.
Amended: Filed December 20, 1988; effective January 9, 1989.
Repealed: New Rule, same title adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-1-.10. Determination of Filing Dates; Deficient Registrations; Abandonment of Registration Applications; Additional Information.

(1) Any application for registration, application for approval, report, or document required by the Act to be filed with the Secretary of State is considered filed when the completed application forms and required filing fees, and all other documents required by these Rules and the Act are received by the Secretary of State.

(2) Any registration application filed pursuant to section 10-14-4 or 10-14-5 of the Act may be deemed deficient if any of the following conditions exist:

(a) the application is not in the proper form; or

(b) the application is not in compliance with section 10-14-4 or 10-14-5, or any other provision of the Act or rules promulgated thereunder.

(3) When a registration application is found to be deficient, the Secretary of State may send a deficiency letter stating the grounds for noncompliance. If, following the transmission of a deficiency letter, no communication is received by the Secretary of State for a period of thirty (30) days, the application may be deemed abandoned, and the Secretary of State may issue a notice of opportunity for hearing pursuant to section 10-14-23 of the Act, stating that the Secretary of State proposes to issue an order dismissing the application. Nothing herein shall be deemed to restrict the ability of the Secretary of State to propose the issuance of an order of denial or dismissal for any other reason.

(4) In addition to the documents specified in the Act, each cemetery owner, preneed dealer and merchandise dealer required to register with the Secretary of State and each principal officer and director thereof shall file, as part of the registration statement, a signed consent to a criminal background check in a form provided by the Secretary of State for the purpose of allowing the Secretary of State to determine whether any such person is subject to any of the prohibitions described in O.C.G.A. Sec. 10-14-8.

(5) The Secretary of State may require the filing of a current copy of a registrant's rules and regulations and schedule of charges at the time of renewal of registration or the filing of any reports required by the Act.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.10
Authority: O.C.G.A. Secs. 10-14-4, 10-14-14, 44-3-139.
History. Original Rule entitled "Determination of Filing Dates; Deficient Registrations; Abandonment of Registration Applications" was filed as Emergency Rule 590-3-1-0.8-.10 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.
Repealed: New Rule, entitled "Determination of Filing Dates; Deficient Registrations; Abandonment of Registration Applications, Additional Information" adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. Nov. 6, 2001; eff. Nov. 26, 2001.

Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-1-.11. Military Spouses and Transitioning Service Members.

(1) As used in this rule, the following terms shall mean:

a. "Board" means the State Board of Cemeterians.

b. "License" means any license issued by the State Board of Cemeterians.

c. "Military" means the United States armed forces, including the National Guard.

d. "Military spouse" means a spouse of a service member or transitioning service member.

e. "Service member" means an active or reserve member of the armed forces, including the National Guard.

f. "Transitioning service member" means a member of the military on active duty status or on separation leave who is within 24 months of retirement or 12 months of separation.

(2) Effective July 1, 2017, military spouses and transitioning service members may qualify for expedited processing of the license application by showing that the applicant is a military spouse or transitioning service member and that the applicant has paid the fee and meets the requirements for a license under the law and rules for the type of license for which the applicant has applied.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.11
Authority: O.C.G.A. §§ 43-8B-7(4), 43-1-34(b).
History. Original Rule entitled "Public Display of Certificate of Registration and Schedule of Fees" was filed as Emergency Rule 590-3-1-0.8-.11 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.
Repealed: Rule retitled "Public Display of Schedule of Fees" held in Reserve. F. July 26, 2000; eff. August 15, 2000.
Amended: New title "Military Spouses and Transitioning Service Members." F. Oct. 13, 2017; eff. Nov. 2, 2017.

Rule 590-3-1-.12. Internal Rules and Regulations of Cemeteries; Schedule of Charges.

(1) No internal rule or regulation or schedule of charges of a cemetery shall be effective until filed with the State Board of Cemeterians and posted as required by Sec. 10-14-16(a) of the Act.

(2) As an amendment to its registration application, every cemetery owner shall immediately notify the State Board of Cemeterians of any modification or amendment of its rules and regulations or any schedule of charges required to be filed by Rule 590-3-3-.01 and shall immediately submit two revised copies of the rules and regulations or schedule of charges as so modified to the State Board of Cemeterians along with a self-addressed stamped envelope. No modification or amendment shall be effective until such notice is received by the State Board of Cemeterians and posted as required by Sec. 10-14-16 of the Act. Any failure of the State Board of Cemeterians to comment on any rules and regulations or schedule of charges filed with them shall not be deemed to be ratification or acceptance of the form or substance of said rules and regulations or schedule of charges.

(3) Pursuant to Section 10-14-17(j) of the Act, beginning October 1, 2008, and July 1 every year thereafter, the State Board of Cemeterians shall adjust the maximum amount which may be charged as a reimbursement fee for the supervision and inspection of the installation of a monument purchased or obtained from and to be installed by a person or firm other than the cemetery company or its agents. By applying a multiplier based on the Consumer Price Index, All Urban Customers, U.S. City Average, All Items, released in May of the year in which the adjustment is made, the State Board of Cemeterians shall calculate the maximum adjusted reimbursement fee.

(4) Pursuant to Section 10-14-17(j) of the Act, beginning October 1, 2008, and July 1 every year thereafter, the State Board of Cemeterians shall adjust the maximum amount which may be charged as a fee by cemeteries for transferring burial rights from one purchaser to another. By applying a multiplier based on the Consumer Price Index, All Urban Customers, U.S. City Average, All Items, released in May of the year in which the adjustment is made, the State Board of Cemeterians shall calculate the maximum adjusted reimbursement fee.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.12
Authority: Authority O.C.G.A. Secs. 10-14-3.1, 10-14-4, 10-14-14, 10-14-16, 10-14-17, 43-8B-7, 44-3-134, 44-3-139.
History. Original Rule entitled "Internal Rules and Regulations of Cemeteries and Preneed Dealers" adopted as ER. 590-3-1-0.8-.12. F. July 7, 1983, eff. July 1, 1983, the date of adoption.
Amended: Permanent Rule of the same title adopted. F. Sept. 9, 1983; eff. Oct. 5, 1983, as specified by the Agency.
Amended: F. Dec. 20, 1988; eff. Jan. 9, 1989.
Repealed: New Rule entitled "Internal Rules and Regulations of Cemeteries" adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule entitled "Internal Rules and Regulations of Cemeteries; Schedule of Changes" adopted. F. Nov. 6, 2001; eff. Nov. 26, 2001.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.
Amended: F. Aug. 27, 2008; eff. Sept. 16, 2008.

Rule 590-3-1-.13. Sales Contracts.

(1) Each contract for sale of burial rights, burial or funeral merchandise, or burial or funeral services shall contain details and information prescribed in O.C.G.A. § 10-14-18. The signature page of the contract shall include:

(a) a statement in bold-face type of not less than ten point type, and in no event less than four points larger than the smallest type size used in the body of the contract, of the items stated in O.C.G.A. § 10-14-18(b);

(b) a column or series of columns with a description of all items sold or for which fees are charged, with a corresponding price appearing to the right of each item. The total purchase price shall appear immediately below the descriptions of items and prices;

(c) a statement or line item showing the amounts to be deposited in any trust or escrow account expressed as either a dollar amount or the percentage of the sales price as required by the Act;

(d) the signatures of the purchaser and the signature and printed name of the authorized representative of the registrant; and

(e) the following in bold face type of not less than the greater of ten points or four (4) points larger than the smallest type face appearing elsewhere in the contract:

IF YOU HAVE ANY COMPLAINTS ABOUT THIS CONTRACT OR THIS TRANSACTION OR HAVE QUESTIONS ABOUT THE LAW GOVERNING THIS TRANSACTION, YOU MAY CONTACT THE OFFICE OF THE GEORGIA SECRETARY OF STATE AT (404) 656-3920.

(2) Any form of contract complying with any applicable federal law or regulation relating to the identical subject matter of information and required items of disclosure described herein shall be deemed in compliance with this rule to that extent. Any disclosure required by the present rule that is not contained in any contract whose contents are governed by such applicable federal law or regulation may be made by separate document displayed to and acknowledged by the customer at the time of purchase.

(3) The Secretary of State may, upon request by the registrant, approve the use of other forms of contracts, the form of which are in substantial conformity with the requirements of this rule.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.13
Authority: O.C.G.A. Secs. 10-14-14, 10-14-18, 44-3-139.
History. Original Rule entitled "Joint Venture" was filed as Emergency Rule 590-3-1-0.8-.13 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.
Amended: Filed December 20, 1988; effective January 9, 1989.
Repealed: Rule retitled "Sales Contracts" held in Reserve. F. July 26, 2000; eff. August 15, 2000.

Repealed: New Rule of same title adopted. F. Jan. 17, 2002; eff. Feb. 6, 2002.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-1-.14. Advertising and Solicitation.

(1) Advertising. Each person required to be registered under the Act will maintain for a period of three (3) years a file of all brochures and copies of all advertising containing price information or offers of free or discounted goods or services, if such advertising was actually printed, published, broadcast or placed on any printed or electronic media. Said file shall also contain the time period during which the materials were used.

(2) Residential Solicitations.

(a) For purposes of this rule, residential solicitation shall mean: "a telephone call to, or an in-person visit at, any place a person defines as his or her home."

(b) No officer, director, employee, or agent of any entity required to be registered under the Act shall initiate, conduct, or attempt to conduct a residential solicitation, for the purpose of selling or other transfer of burial rights, burial or funeral merchandise or burial or funeral services, before the hour of 9:00 a.m. or after the hour of 9:00 p.m. except upon the prior express request of the person solicited.

(c) No officer, director, employee or agent of any entity required to be registered under the Act shall make any residential solicitation in which the person solicited is asked to visit the office of the cemetery, funeral home or other establishment for the purpose of updating records, confirming records, or similar purposes, if it is intended at the time of such visit to seek to sell or offer to sell such person burial rights, burial or funeral merchandise or burial or funeral services.

(3) Requirement or Suggestion of Office Visit or Personal Meeting. No person registered under the Act may:

(a) require any person to visit any office or other location, or insist upon a personal meeting at any other location, in order to take any action related to the subject matter of the Act if such action may reasonably be accomplished by telephone, mail or other means; or

(b) suggest to or inform any person that such person should visit any office or other location, or meet personally at any other location, without informing such person that the reason for the visit or meeting is a sales solicitation, if it is intended that a sales solicitation will take place at such meeting.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.14
Authority: O.C.G.A. Secs. 10-14-14, 44-3-139.
History. Original Rule entitled "Sales Contracts" was filed on September 9, 1983; effective October 5, 1983, as

specified by the Agency.
Repealed: Rule retitled "Advertising and Solicitation" held in Reserve. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. Jan. 17, 2002; eff. Feb. 6, 2002.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-1-.15. Dishonest or Unethical Business Practices.

(1) Every cemetery, preneed dealer, merchandise dealer, salesperson or person subject to the jurisdiction of the Act shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of business.

(2) The Secretary of State may, at his or her discretion, undertake such investigations and take such actions as are authorized by the Act whenever he or she has reasonable grounds to believe that the Act has been violated or is about to be violated in any manner including, but not limited to, the following:

(a) Hypothecation of trust funds or escrow funds required by the Act to be maintained by a cemetery or preneed dealer;

(b) Disciplinary action taken against any person subject to the provisions of the Act by the appropriate board or agency of any state or territory governing the licensing and administration of cemeteries, cemetery salespersons, merchandise dealer, and any dealers and salesmen of preneed burial merchandise;

(c) The selling of or the offering to sell any cemetery property, burial rights, burial services, or burial merchandise by means of any oral or written untrue statement of material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;

(d) The misappropriation, conversion, illegally withholding, or failure to account for any cemetery trust funds, escrow funds, or other funds established or maintained pursuant to the Act;

(e) The willfully making or causing to be made, in any document filed with the Secretary of State or in any proceeding under the Act, any statement which is, at the time it is made and in the light of the circumstances under which it is made, false or misleading in any material respect;

(f) The employment of any device, scheme, or artifice to defraud a purchaser in connection with the offer, sale, or purchase of any cemetery property, burial rights, burial services, or burial merchandise, directly or indirectly;

(g) The engaging in any transaction, act, practice, or course of business which operates or has operated as a fraud or deceit upon a purchaser or seller in

connection with the offer, sale, or purchase of any cemetery property, burial rights, burial services, or burial merchandise, directly or indirectly;

(h) Failing to provide a copy of any contract entered into by any person to such person or to his or her authorized representative; or

(i) Engaging in any act, omission, practice or activity which is otherwise a violation of the Act or these Rules.

(3) In any rule, regulation or written communication, no registrant may refer to the Act or Rules promulgated thereunder unless the Rule or section of the Act referred to is quoted in full.

(4) In any communication with an owner(s) of burial rights, his or her executor, administrator or other legal representative, no registrant or person subject to the jurisdiction of the Act shall make any false, misleading or incomplete statement regarding the provisions of the Act or the Rules promulgated thereunder.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.15
Authority: O.C.G.A. Secs. 10-14-14, 44-3-134, 44-3-137, 44-3-139.
History. Original Rule entitled "Sales of Undeveloped Cemetery Lots. Unconstructed Mausoleum Crypts, and Unassigned Cemetery Lots" was filed on September 9, 1983; effective October 5, 1983, as specified by the Agency.
Amended: Rule repealed and a new Rule of the same title adopted. Filed October 24, 1983; effective November 13, 1983.
Amended: December 20, 1988; effective January 9, 1989.
Repealed: New Rule entitled "Dishonest or Unethical Business Practices" adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. Nov. 6, 2001; eff. Nov. 26, 2001.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-1-.16. Non-Payment of Statutory Fees or Penalties.

(1) Every registration, annual report, filing, or administrative penalty required or imposed pursuant to the Code or any Rule or Regulation promulgated thereunder shall be accompanied by the required fee. No registration, annual report, filing or administrative penalty required pursuant to the Code or any Rule shall be considered officially received by the Secretary of State without the required fee.

(2) If a check submitted in payment of a fee is dishonored, the Secretary of State shall promptly notify the applicant, registrant or filer of the dishonor. The applicant, registrant or filer shall have fifteen (15) days from the date of notice to pay the required fee. If such payment is not made, the Secretary of State may take any action authorized by the Act.

(3) All fees are nonrefundable.

(4) In the event that a civil penalty is imposed upon any person pursuant to Code Section 10-14-19, the Secretary of State may, to collect such civil penalty, act under any or all of the following paragraphs:

(a) In addition to any other method provided by law for the collection of civil penalties imposed pursuant Code Section 10-14-19, any civil penalty assessed by the Secretary of State in any order that is not paid when due, including failure to pay any interest or costs thereon, may be collected by the Secretary of State by and with the same authority contained in Code Section 48-2-55, which provides for the collection of taxes by the state revenue commissioner. If any civil penalty imposed by the Secretary of State pursuant Code Section 10-14-19 is not paid within ten (10) days after notice and demand from the Secretary of State, the Secretary of State may notify the Attorney General. The Attorney General may, in his or her sole discretion, initiate appropriate proceedings to collect such penalty.

(b) In aid of collection or execution, the Secretary of State may do either, or both, of the following:

1. Examine any person, including the person liable, by taking depositions or propounding interrogatories as provided in the Georgia Civil Practice Act, Chapter 11 of Title 9 of the Official Code of Georgia; or

2. Compel the production of documents or other items as provided in the Georgia Civil Practice Act, Chapter 11 of Title 9 of the Official Code of Georgia.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.16
Authority: O.C.G.A. Secs. 10-14-14, 10-14-19, 43-17-10, 44-3-135, 44-3-139.
History. Original Rule entitled "Minimum Cemetery Acreage" adopted. F. Dec. 20, 1988; eff. Jan. 9, 1989.
Repealed: F. July 26, 2000; eff. August 15, 2000.
Amended: New Rule entitled "Non-Payment of Statutory Fees or Penalties" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-1-.17. Enforcement Procedures.

(1) Formal Orders of Investigation. The Secretary of State may, at any time, whether based upon a complaint, referral, or information and belief, issue a formal order of investigation that shall commence such public or private investigation within or outside this State, as he or she deems necessary, to determine whether any person has violated or is about to violate the Act or any Rule, Regulation, or order created under the Act or to aid in the enforcement of the Act or in the prescribing of Rules and Regulations thereunder.

(2) Appointment of an auditor, examiner, or regulatory monitor. In addition to those administrative sanctions the Secretary of State may impose pursuant to Code Section 10-

14-19, the Secretary of State may also issue an order for the appointment of an individual qualified by education and experience as an auditor, examiner, or regulatory monitor.

(3) Report of Examination or Inspection. The Secretary of State, within his or her sole discretion, may accept or reject such examination or inspection, in whole or in part. If the report is accepted, the Secretary of State shall file said report in the public records of the Secretary of State. The Secretary of State may, within his or her sole discretion, accept or reject, in whole or in part, the recommendations of the independent examiner.

(4) Emergency Orders. Notwithstanding any other provision of the Act or the Rules and Regulations promulgated thereunder, an emergency order is effective on the date of issuance, provided that:

(a) The Secretary of State deems that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in the emergency order, in which case the order may be effective immediately pending proceedings. The proceedings shall be promptly instituted;

(b) The order is issued pursuant to Code Sections 10-14-11 or 10-5-19; or

(c) The order is expressly required, by a judgment or a statute, to be made without the right to a hearing or continuance of any type.

Upon issuance of the order, the Secretary of State shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement of any administrative sanction(s) that the Secretary of State will seek, a statement of the reasons for the order, and notice that, upon the request by any respondent named in the emergency order, a hearing will be promptly scheduled. If a person subject to the order does not request a hearing, and the Secretary of State orders no hearing within thirty (30) days after the date of service of the order, the order shall become final as to that person by operation of law. If a hearing is requested by any person subject to the emergency order, or is ordered by the Secretary of State, after notice and opportunity for hearing has been served upon each person subject to the emergency order, the Secretary of State may modify, vacate, or extend the emergency order any time prior to a final determination.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.17
Authority: O.C.G.A. Secs. 10-14-14, 10-14-19, 44-3-134, 44-3-139.
History. Original Rule entitled "Nonperpetual Care Cemeteries" adopted. F. Dec. 20, 1988; eff. Jan. 9, 1989.
Repealed: F. July 26, 2000; eff. August 15, 2000.
Amended: New Rule entitled "Enforcement Procedures" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-1-.18. Appointment of Investigative Agent, Examiner or Regulatory Monitor.

(1) In the case of any investigation or examination conducted under Code Section 10-14-15, the Secretary of State may appoint an investigative agent, examiner or regulatory monitor to conduct the investigation or examination who shall have the powers and authority granted by the Secretary of State.

(2) An investigative agent, examiner or regulatory monitor must possess the necessary investigative, legal, accounting or financial skills and expertise to properly analyze the evidence, prepare and present a comprehensive report, and follow through until completion of the assigned task. Depending on the nature and complexity of the assignment, special skills and qualifications may be required. This may require a person to be a member of the State Bar of Georgia, a Certified Public Accountant, a trained and experienced state or federal government administrative or criminal investigator, a financial analyst or a current or former licensed person in one of the regulated industries. The investigative agent, examiner or regulatory monitor must certify that he or she does not have, nor is there a perception that he or she may have, a professional conflict of interest in the matter to be investigated. The Secretary of State, in his or her sole discretion, shall determine the qualifications of an investigative agent, examiner or regulatory monitor.

(3) Unless otherwise indicated in the order, supervision of the investigative agent is vested in the Secretary of State or his or her designee.

(4) An investigative agent, examiner or regulatory monitor shall be appointed by order under the appropriate Code Section. The order shall generally identify the matter, the persons to be investigated, the qualifications of the individual appointed as investigative agent, procedures for securing subpoenas, and reporting requirements. The order shall also establish the rate of compensation and invoicing and billing procedures.

(5) Only individuals may be appointed to act as investigative agents, examiners or regulatory monitors. If a matter requires additional individuals or expertise, additional appointments may be made by order in which a supervising investigative agent, examiner or regulatory monitor shall be designated.

(6) An investigative agent, examiner or regulatory monitor shall serve for a period of up to twelve (12) months. The period of appointment may be shortened or extended by the Secretary of State as circumstances require.

(7) Types of Cases. An investigative agent, examiner or regulatory monitor shall not ordinarily be appointed to handle routine matters and complaints that come before the Secretary of State. Examples of matters in which an appointment would normally occur include, by way of illustration only, any of the following:

   (a) Complex investigations requiring detailed analytical skills not available to the staff due to staff cutbacks, new and inexperienced staff; or that require skills that are not presently available on staff;

(b) The existence of heavy workloads that make current staff unavailable to address the matter in a reasonable amount of time;

(c) Matters requiring extensive litigation skills in preparing administrative orders, civil complaints, criminal indictments, or similar documents;

(d) Complex audits that require the skills of a senior and qualified CPA specializing in the area;

(e) A regulatory enforcement order or consent order that requires the appointment of an investigative agent, examiner or regulatory monitor; or

(f) A multi-state cooperative investigation or program that the staff would not be able to complete in a timely manner.

(8) In any case where investigations or examinations are conducted by an investigative agent, examiner or regulatory monitor, he or she shall submit to the Secretary of State a written report, including the transcript of the testimony in evidence (if requested by the Secretary of State), the findings and recommendations of the action to be taken by the Secretary of State. The recommendation of the agent may be approved, modified, or disapproved by the Secretary of State. The Secretary of State may direct an investigative agent or examiner to conduct further investigation, take additional testimony or acquire further documentary evidence as may be necessary and appropriate.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.18
Authority: O.C.G.A. Secs. 10-14-14, 10-14-15, 44-3-137, 44-3-139.
History. Original Rule entitled "Issuance of Deeds to Cemetery Lots" adopted. F. Dec. 20, 1988; eff. Jan. 9, 1989.
Repealed: F. July 26, 2000; eff. August 15, 2000.
Amended: New Rule entitled "Appointment of Investigative Agent, Examiner or Regulatory Monitor" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-1-.19. Criminal History Access and Confidential Law Enforcement Informers.

(1) The Secretary of State's investigators who are certified as peace officers by the Georgia Peace Officers Standards and Training Council are authorized to request access to criminal history files maintained by any state or federal law enforcement agency.

(2) Criminal history information that the Secretary of State's investigators obtain from state or federal law enforcement agencies shall be securely maintained by the Secretary of State and his or her staff and shall be confidential.

(3) Any access to such criminal history information shall be made in accordance with applicable laws, conditions, and limits imposed by the providing enforcement agency.

(4) The Secretary of State may determine, in his or her sole discretion, whether the identity of a confidential informer shall be disclosed. The Secretary of State shall take into account the public interest and the safety and security of the confidential informer.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.19
Authority: O.C.G.A. Secs. 10-14-13, 10-14-14.
History. Original Rule entitled "Criminal History Access and Confidential Law Enforcement Informers" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-1-.20. Copies of Documents.

(1) Upon request, the Secretary shall provide certified copies of any document, instrument, data, or paper officially filed as available on the automated database, microfilm files or other records maintained by or on behalf of the Secretary.

(2) Except as otherwise provided in the Act or by these Rules, the Secretary may accept telephonic or electronic requests for copies of documents and the certification of such documents, provided such requests specifically identify the documents requested.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.20
Authority: O.C.G.A. Sec. 10-14-14.
History. Original Rule entitled "Copies of Documents" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-1-.21. Certification of Forms.

(1) At least thirty (30) days prior to using any new form each entity subject to the provisions of the Act and the Rules and Regulations shall file, in a format prescribed by the Secretary, a listing of new preneed forms including a fully executed certificate of compliance. Any such listing and the applicable certificate of compliance must be prepared individually for each contract and/or forms.

(2) Elements of Certification. The elements of certification as determined by the Secretary which must be included in all forms are as follows:

(a) The name of the entity;

(b) A statement that the officer signing the certification form is knowledgeable of the information contained in each preneed contract and/or forms, whichever is being certified;

(c) A statement that the officer signing the certification form has carefully reviewed the preneed contracts and/or forms which are attached to the certification;

(d) A statement that the officer signing the certification has read and understands each applicable law, regulation and policy statement as it pertains to the new forms; and

(e) A statement that the officer signing the certification form certifies that:

1. For the Listing of New Preneed Forms that the certifying officer has reviewed the proposed contracts and/or agreements and to the best of the officer's good faith, knowledge and belief, the preneed contracts and/or agreements identified on the listing of new policy forms are in full compliance with all Georgia cemetery laws and rules and regulations;

2. The name and title of the officer signing the certification form and the date the certification form is signed;

3. The original signature of the officer. Signature stamps, photocopies or a signature on behalf of the officer will not be accepted. Electronic signatures must be in compliance with the rules and regulations.

Cite as Ga. Comp. R. & Regs. R. 590-3-1-.21
Authority: O.C.G.A. Sec. 10-14-14.
History. Original Rule entitled "Certification of Forms" adopted. F. May 19, 2005; eff. June 8, 2005.

Subject 590-3-2. PRENEED SALES AGENTS.

Rule 590-3-2-.01. Preneed Sales Agents.

(1) The registration of a preneed sales agent shall be valid for a period of twelve (12) months from its date of effectiveness as stated on the preneed sales agent permit issued by the Secretary of State.

(2) The registration must be renewed on or before the expiration date each year by the submission of a renewal application to the Secretary of State along with the payment of the renewal fee of $50.00.

Cite as Ga. Comp. R. & Regs. R. 590-3-2-.01
Authority: O.C.G.A. Secs. 10-14-5, 10-14-14, 44-3-132, 44-3-139.
History. Original Rule entitled "Registration" was filed as Emergency Rule 590-3-2-0.9-.01 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.
Amended: Rule repealed and a new Rule entitled "Employment Records" adopted. Filed December 20, 1988; effective January 9, 1989.
Repealed: New title, "Salespersons," held in reserve. F. July 26, 2000; eff. August 15, 2000.
Amended: New Rule entitled "Preneed Sales Agents" adopted. F. Jan. 17, 2002; eff. Feb. 6, 2002.

Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-2-.02. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-3-2-.02
Authority: O.C.G.A. Secs. 10-14-14, 44-3-132, 44-3-133, 44-3-139.
History. Original Rule entitled "Amendments to or Changes in Registration" was filed as Emergency Rule 590-3-2-0.9-.02 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.
Amended: Rule repealed and a new Rule entitled "Dishonest or Unethical Business Practices" adopted. Filed December 20, 1988; effective January 9, 1989.
Repealed: F. July 26, 2000; eff. August 15, 2000.

Rule 590-3-2-.03. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-3-2-.03
Authority: O.C.G.A. Secs. 44-3-131, 44-3-139.
History. Original Rule entitled "Exemption from Registration" was filed as Emergency Rule 590-3-1-0.9-.03 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.
Amended: Rule repealed. Filed December 20, 1988; effective January 9, 1989.

Rule 590-3-2-.04. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-3-2-.04
Authority: O.C.G.A. Secs. 44-3-132, 44-3-139.
History. Original Rule entitled "Multiple Registrations" was filed on October 24, 1983; effective November 13, 1983.
Amended: Rule repealed. Filed December 20, 1988; effective January 9, 1989.

Rule 590-3-2-.05. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-3-2-.05
Authority: O.C.G.A. Secs. 44-3-132, 44-3-139.
History. Original Rule entitled "Sales Organization" was filed on October 24, 1983; effective November 13, 1983.
Amended: Rule repealed. Filed December 20, 1988; effective January 9, 1989.

Subject 590-3-3. PERPETUAL CARE CEMETERIES.

Rule 590-3-3-.01. Additional Documents to be Filed with Registration Application.

In addition to the documents specified in O.C.G.A. Sec. 10-14-4(b)(1), each cemetery owner shall file:

(1) A certified copy of a plat of the land indicating the following:

(a) The plat has been recorded with the appropriate specified governmental agency and bearing the appropriate index number in accordance with Official Code of Georgia Annotated section 44-2-26, as now or hereafter amended;

(b) the name of the cemetery; and

(c) the total acreage of dedicated cemetery property.

(2) Satisfactory evidence that the cemetery owner holds an unencumbered fee simple title to the required minimum number of acres required by O.C.G.A. § 10-14-10. Undeveloped cemetery property in excess of the minimum number of acres required by the Act may be encumbered for the purpose of improving or developing such property to be used for cemetery purposes.

Cite as Ga. Comp. R. & Regs. R. 590-3-3-.01
Authority: O.C.G.A. Secs. 10-14-3.1, 43-8B-7(4)10-14-14, 44-3-134, 44-3-139.
History. Original Rule entitled "Additional Documents to Be Filed With Registration Application" was filed as Emergency Rule 590-3-3-0.10-.01 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.
Repealed: New Rule, same title adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. Nov. 6, 2001; eff. Nov. 26, 2001.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.
Amended: F. Nov. 4, 2011; eff. Nov. 24, 2011.

Rule 590-3-3-.02. Reports Subsequent to Effective Registration.

Each cemetery owner required to register with the Secretary of State shall file an annual report in a form specified by the Secretary of State.

(1) The report shall be deemed to be timely filed if it is either:

(a) received in the office of the Division of Securities and Business Regulation during business hours not later than March 31 of each calendar year, or

(b) if it is mailed certified mail, return-receipt requested and post-marked not later than March 31 of each calendar year.

(2) The report must include all supporting documentation including, but not limited to, a calendar year end bank statement. In the event the trustee is a financial institution, the calendar year end bank statement shall be submitted to the Office of the Secretary of State by such institution. All other required documentation shall be filed by the cemetery owner.

Cite as Ga. Comp. R. & Regs. R. 590-3-3-.02
Authority: O.C.G.A. Secs. 10-14-14, 44-3-137, 44-3-139.
History. Original Rule entitled "Reports Subsequent to Effective Registration" was filed as Emergency Rule 590-3-3-0.10-.02 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.
Repealed: New Rule, same title adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-3-.03. Evidence of Transfer of Burial Rights; Business, Corporate, and Financial Records.

(1) Deed or Certificate. A deed or other certificate to a grave space or other burial right shall be issued by a cemetery whenever the space is used for the interment of human remains or whenever the space is fully paid for.

(2) Corporate and Financial Records. Each perpetual care cemetery required to register with the Secretary of State shall keep and maintain its business and financial records for the cemetery and its perpetual care trust fund as segregated records separate and apart from the records of any other cemetery, trust, or business, including any other cemetery or business of the cemetery owner, cemetery salespersons, or perpetual care trustee.

(3) Plat of Real Property. Each perpetual care cemetery required to register with the Secretary of State shall cause to be made a plat in accordance with Official Code of Georgia Annotated § 44-2-26, as now or hereafter amended. A copy of said plat shall be kept and made available for public inspection at the cemetery's principal place of business in Georgia that is open to the public.

(4) Sales Journal. Each perpetual care cemetery required to register with Secretary of State shall keep and maintain a sales journal at the cemetery's principal place of business. Said sales journal shall contain, at a minimum, the following items:

(a) A record of each individual specified sales contract, indicating the sales contract number;

(b) The date of execution of each specified sales contract;

(c) The name of the person who purchased the property pursuant to each specified sales contract;

(d) The total sales price of the property subject to each specified sales contract;

(e) The number of lots subject to each specified sales contract;

(f) The location of property which must include section, lot and space number; and

(g) The amount due to the perpetual care trust fund.

(5) Space Lot Journal. Each perpetual care cemetery required to register with the Secretary of State shall keep and maintain a space lot journal or equivalent records at the cemetery's principal place of business in Georgia. Said space lot journal shall contain at a minimum, the following items:

(a) A numerically identified record of each cemetery lot identified in a manner corresponding to the property plat and organized in a manner corresponding to any designated subsections of the cemetery;

(b) If a specified lot has been sold, the date of its sale;

(c) If a specified lot has been sold, the full name of the person who purchased the lot;

(d) If a specified lot has been sold, cross-reference to the cemetery's deed book;

(e) Indication that the lot has been used for interment, the identity of the person interred, and the date on which the person was interred; and

(f) If a specified lot has been sold, the sales contract number.

(6) Deed Book. Each perpetual care cemetery required to register with the Secretary of State shall keep and maintain one permanent deed book at the cemetery's principal place of business in Georgia. Said deed book shall contain, at a minimum, the following items:

(a) A consecutively numbered record of each individual deed or other certificate issued in one continuous numerical sequence for the entire cemetery;

(b) The date of issuance of each individual specified deed or certificate;

(c) The full name of the person to whom each specified deed or certificate was issued;

(d) The total sale price of the property subject to each specified deed or certificate;

(e) The amount due to the perpetual care trust fund;

(f) The number of lots subject to each specified deed or certificate;

(g) If the cemetery has designated subsections, the name of the subsection in which the property subject to each specified deed or certificate is located;

(h) Cross-reference to the cemetery's space lot journal and to the sales contract; and

(i) In the case of a transfer of ownership of a cemetery lot, the names of the transferor and transferee and the numbers of the old and the new deed or certificate.

(7) Copies of Deeds or Certificates. Each perpetual care cemetery required to register with the Secretary of State shall keep and maintain a copy (photostatic or otherwise) of every deed or certificate issued on or after August 1, 1989. Said copies shall be available for inspection upon request by the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-3-3-.03
Authority: O.C.G.A. Secs. 10-14-14, 44-3-134, 44-3-139.
History. Original Rule entitled "Business, Corporate and Financial Records" adopted as ER. 590-3-3-0.10-.03. F. July 7, 1983; eff. July 1, 1983, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Sept. 9, 1983; Oct. 5, 1983, as specified by the Agency.
Amended: F. Dec. 20, 1988; eff. Jan. 9, 1989.
Repealed: New Rule entitled "Evidence of Transfer of Burial Rights; Business, Corporate, and Financial Records" adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-3-.04. Marking of Nonperpetual Care Sections.

If a perpetual care cemetery required to register with the Secretary of State contains lots, sections, or parcels for which perpetual care is not promised and maintained, the nonperpetual care section shall be physically separate or distinguished from the perpetual care sections, and both nonperpetual care and perpetual care sections shall be clearly marked and designated. This requirement may be satisfied by the installation of an identifying sign, of a size not less than one-half (1/2) square foot, spaced not less than every one hundred (100) feet along the perimeter of each nonperpetual care section, identifying any nonperpetual care section as such. Any plat of the cemetery filed with the Secretary of State, and any map of the cemetery provided to any person, shall likewise identify any nonperpetual care portion of the cemetery. In the event a cemetery does not post such signs and depict such information on its plat with respect to any section or portion, such property may be considered to be a perpetual care cemetery portion.

Cite as Ga. Comp. R. & Regs. R. 590-3-3-.04
Authority: O.C.G.A. Secs. 10-14-14, 44-3-139.
History. . Original Rule entitled "Marking of Perpetual Care Sections" adopted as ER. 590-3-3-0.10-.04. F. July 7, 1983; eff. July 1, 1983, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Sept. 9, 1983; Oct. 5, 1983, as specified by the Agency.
Repealed: New Rule entitled "Marking of Nonperpetual Care Sections" adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-3-.05. Perpetual Care Trust Fund.

(1) Deposits to the perpetual care trust fund shall be whichever is the greatest of:

(a) the amount required by the Act;

(b) the amount required by the controlling trust agreement; or

(c) the amount represented to the purchaser as being the amount to be deposited.

(2) For the purposes of determining appropriate uses of interest and earnings from the perpetual care trust fund, in addition to other elements of care and maintenance specifically enumerated in the Act and these Rules, a cemetery may use such funds for restoration and maintenance of monuments that are in disrepair.

(3) Each cemetery owner that has sold more than 50 percent of available lots may withdraw 95 percent of the income from the perpetual care trust fund after certifying compliance with the requirements of this section by submitting written notice to the Secretary. The cemetery owner shall have a continuing duty to notify the Secretary of any additional land developed for burial purposes. If such further development results in less than 50 percent of available lots unsold, the income earned must be retained by the perpetual care trust fund until such time as more than 50 percent of the available lots are sold.

(4) Each cemetery owner shall establish a perpetual care trust fund separate and distinct from any previously existing perpetual care trust fund for the purpose of making required deposits for sales occurring after July 1, 2000. If allowed by the terms of any perpetual care trust fund existing as of such date, any cemetery owner may, upon notice to the Secretary of State, deposit into such new account the entire balance of any previously established account, which deposit shall be irrevocable and which funds shall then become subject to the provisions of the trust agreement for such new account and the provisions of the Act relative to such new account. If allowed by the terms of any perpetual care trust fund agreement existing as of such date, the cemetery may make additional deposits to such a trust fund on the condition that the entire corpus of the trust fund, any income earned by the trust fund, and any subsequent deposits to the trust fund are thereafter governed by the provisions of the Act.

(5) Pursuant to Section 10-14-6 of the Act, beginning July 1, 2003, and every three years thereafter, the Secretary of State shall adjust the $50.00 minimum deposit required to be made to the perpetual care trust fund based on the rate of change in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor. Using the Consumer Price Index, All Urban Customers, U.S. City Average, All Items, released in June of 2003 and every third year thereafter, the Secretary of State shall calculate the adjusted minimum deposit and inform all cemeteries registered under the Act by mailing a Notice of Deposit Adjustment.

Cite as Ga. Comp. R. & Regs. R. 590-3-3-.05
Authority: O.C.G.A. Secs. 10-14-6, 10-14-14, 44-3-134, 44-3-139.
History. Original Rule entitled "Perpetual Care Trust Fund" adopted as ER. 590-3-3-0.10-.05. F. July 7, 1983; eff. July 1, 1983, the date of adoption.

Amended: Permanent Rule of same title adopted. F. Sept. 9, 1983; Oct. 5, 1983, as specified by the Agency.
Repealed: New Rule of same title adopted. F. July 26, 2000; eff. August 15, 2000.
Amended: F. Dec. 11, 2003; eff. Dec. 31, 2003.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.
Amended: F. Oct. 7, 2015; eff. Oct. 27, 2015.

Rule 590-3-3-.06. Trustee of Perpetual Care Trust Fund.

(1) The following persons may act as the trustee of the perpetual care trust fund required by § 10-14-6 of the Act:

(a) A bank or financial institution incorporated pursuant to Official Code of Georgia Annotated § 7-1-390, *et seq.*, and authorized to exercise and validly exercising the powers of a fiduciary pursuant to Article 2, Chapter 1 of Title 7 of the Official Code of Georgia Annotated, as now or hereafter amended;

(b) A building and loan or savings and loan association incorporated pursuant to Official Code of Georgia Annotated § 7-1-770, *et seq.*, and authorized to exercise and validly exercising the powers of a fiduciary pursuant to Article 7, Chapter 1 of Title 7 of the Official Code of Georgia Annotated, as now or hereafter amended;

(c) A trust company incorporated pursuant to Official Code of Georgia Annotated § 7-1-390, *et seq.*, and authorized to exercise and validly exercising the powers of a fiduciary pursuant to Article 2, Chapter 1 of Title 7 of the Official Code of Georgia Annotated, as now or hereafter amended;

(d) A national bank authorized to act as a fiduciary under the laws of the United States;

(e) A federally chartered savings and loan association authorized to act as a fiduciary under the laws of the United States; and

(f) Any other institution with trust powers authorized to be a depository for a perpetual care trust fund under the Act or which is approved by the Secretary of State or which meets standards set forth in these Rules.

(2) Any prospective trustees of a type not specifically described in the Act or these Rules may petition the Secretary of State for approval.

(3) Upon approval of the Secretary of State, a cemetery owner or an officer or director of a cemetery company or its affiliate may act as trustee of a perpetual care trust fund if the account documents require the signature of the Secretary of State or his or her authorized representative in order for any withdrawal to be made from said account and if the depository agreement is in a form satisfactory to the Secretary of State.

(4)

(a) No less than ten (10) days prior to any change or substitution of the trustee of a perpetual care trust fund, the cemetery or cemetery company required to establish and maintain a perpetual care trust fund pursuant to Official Code of Georgia Annotated § 10-14-6 shall file a notice with the Secretary of State that contains the following:

1. The cemetery name and registration number;

2. The cemetery location and mailing address, including city, state and zip code;

3. The cemetery phone number;

4. The name, telephone number and address, including city, state and zip code, of the new trustee of the perpetual care trust fund;

5. A copy of the perpetual care trust fund agreement executed by the registrant and the new trustee;

6. The name, address, location, and telephone number of the perpetual care trust fund depository or depositories along with the names of the perpetual care trust accounts and the account numbers;

7. A dated and notarized signature of the individual duly authorized to sign the notice filing, including the signatory's printed name and title. If the cemetery is incorporated, the president or authorized individual shall sign; and

8. If the person signing did not prepare the notice filing, the printed name, signature, and title of the person who prepared the notice filing is required.

(b) Within thirty (30) days after any change or substitution of the trustee of a perpetual care trust fund, the former trustee shall submit to the Office of the Secretary of State the following:

1. The yearly financial report required by Official Code of Georgia Annotated § 10-14-6(h), which shall be calculated based on the year-to-date with respect to the perpetual care trust fund; and

2. Written certification detailing the account balances as of the date of transfer to the new trustee and verification of the assets delivered to the new trustee.

(c) Within thirty (30) days after any change or substitution of the trustee of a perpetual care trust fund, the new trustee shall submit to the Secretary of State written certification detailing the account balances as of the date of receipt of the perpetual care trust funds and verification of the assets received by the new trustee.

Cite as Ga. Comp. R. & Regs. R. 590-3-3-.06
Authority: O.C.G.A. §§ 10-14-3.1 and 10-14-14.
History. Original Rule entitled "Trustee of Perpetual Care Trust Fund" adopted as ER. 590-3-3-0.10-.06. F. July 7, 1983; eff. July 1, 1983, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Sept. 9, 1983; Oct. 5, 1983, as specified by the Agency.
Amended: F. Dec. 20, 1988; eff. Jan. 9, 1989.
Repealed: New Rule of same title adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.
Amended: F. May 21, 2013; eff. June 10, 2013.

Rule 590-3-3-.07. Depository of Perpetual Care Trust Fund.

(1) The following persons may act as the depository of the perpetual care trust fund required by Sec. 10-14-6 of the Act:

(a) Those institutions specifically described in Sec. 10-14-6 of the Act;

(b) An insurance company licensed to do business in Georgia and which has an A.M. Best rating of B+ or better;

(c) Any other financial institution not specifically noted in this Rule and which petitions the Secretary of State for approval. The Secretary of State may approve such institution as a depository if it demonstrates to the Secretary of State its financial soundness and responsibility and complies with the other requirements of this Rule.

(2) No financial institution shall serve as a depository unless it either:

(a) maintains an office in this State at which the account is maintained and which subjects the institution to the jurisdiction of the courts of this State; or

(b) agrees, in a form acceptable to the Secretary of State, that jurisdiction and venue for any dispute related to the perpetual care trust fund shall lie in the Superior Court of the county in which the relevant cemetery is located or Fulton County.

(3) In making any investments and in acquiring and retaining those investments and managing the perpetual care trust fund, the trustee shall exercise the judgment and care, under the circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

(4) Funds in a perpetual care trust account into which deposits are made on account of sales occurring on or after July 1, 2000 shall be invested and reinvested according to Sec. 10-14-6(f) of the Act, which includes, but is not limited to, investing the funds in manner in which the funds are not subject to a risk of capital loss; in investments guaranteed by a

governmental insurance entity of the type described in Sec. 10-14-6(a)(3) of the Act, or in a high-quality bond, note or certificate of deposit issued by any of the following:

(a) a municipal, state or federal governmental entity,

(b) a financial institution eligible to be a trustee or depository of a perpetual care trust account, or

(c) by any financial institution approved by the Secretary of State who agrees to abide by the investment laws of Code Sections 53-8-1 through 53-8-4 of the 'Pre-1998 Probate Code,' if applicable, or Code Section 53-8-1 and Code Section 53-12-287 of the 'Revised Probate Code of 1998'.

Cite as Ga. Comp. R. & Regs. R. 590-3-3-.07
Authority: O.C.G.A. Secs. 10-14-6, 10-14-14, 44-3-134, 44-3-139.
History. Original Rule entitled "Depository of Perpetual Care Trust Account" adopted as ER. 590-3-3-0.10-.07. F. July 7, 1983; eff. July 1, 1983, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Sept. 9, 1983; Oct. 5, 1983, as specified by the Agency.
Amended: F. Dec. 20, 1988; eff. Jan. 9, 1989.
Repealed: New Rule of same title adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.
Amended: F. Oct. 7, 2015; eff. Oct. 27, 2015.

Rule 590-3-3-.08. Sales and Business Practices.

(1) Discounting of Factoring of Accounts Receivable. If a cemetery discounts or factors the accounts receivable created by the sale of cemetery lots on a full recourse basis or signs a collateral agreement making the cemetery remain liable upon default of a cemetery lot contract, any sales contract involved is not deemed to be paid in full for a period not to exceed six (6) years from the execution date of the contract until the factor or purchaser of the accounts receivable is paid in full by the purchaser of the cemetery lot. If a cemetery discounts or factors said accounts receivable on a nonrecourse basis, any sales contracts involved is deemed to be paid in full at the time of discounting or factoring of the account.

(2) Repurchase and Subsequent Sale. If a cemetery, cemetery company, or cemetery salesperson repurchases or otherwise obtains a burial space from a previous purchaser and sells the lot again to a subsequent purchaser, a deposit to the perpetual care trust fund for the subsequent sale shall be made in accordance with section 10-14-6(b) of the Act.

(3) In-Kind Trade. If a cemetery, cemetery company or cemetery salesperson makes an in-kind trade of a lot, mausoleum crypt, or niche in one cemetery for any other lot, mausoleum crypt, or niche in any other cemetery, a deposit to the perpetual care trust fund for the lot so given shall be made in accordance with section 10-14-6(b) of the Act.

(4) Intra-cemetery Trades. If a cemetery lot, crypt, or niche is traded for another cemetery lot, crypt, or niche in the same cemetery, any amount actually deposited to the perpetual care trust fund for the lot, crypt, or niche so traded will be allowed as a credit for the deposit required to the perpetual care trust fund for the new purchase.

Cite as Ga. Comp. R. & Regs. R. 590-3-3-.08
Authority: O.C.G.A. Secs. 10-14-6, 10-14-14, 44-3-134, 44-3-139.
History. Original Rule entitled "Sales and Business Practices" was filed as Emergency Rule 590-3-3-0.10-.08 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983 as specified by the Agency.
Repealed: New Rule, same title adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-3-.09. Perpetual Care Trust Agreement.

(1) Filing.

(a) Each cemetery owner shall file with the Secretary of State an executed copy of a perpetual care trust agreement with an application for registration.

(2) Review. Any perpetual care trust agreement may be subject to the review and approval of the Secretary of State to determine compliance with the Act and these Rules. In the event the Secretary of State determines, after review, that the agreement does not comply with the Act and applicable Rules, the perpetual care cemetery shall be notified in writing by the Secretary of State regarding any changes required to be made for compliance with the Act and the Rules.

(a) Any perpetual care trust agreement on file with the Secretary of State prior to July 1, 2000, may be reviewed by the Secretary of State and, if reviewed, the perpetual care cemetery shall be notified in writing of any changes required for compliance with the act and the rules and regulations promulgated thereunder.

(b) A perpetual care cemetery, after written notification by the Secretary of State, shall have a reasonable period of time, not to exceed thirty (30) days, in which to respond and act upon changes to the perpetual care trust agreement required by the Secretary of State.

(3) Amendments.

(a) Each proposed amendment or change to the perpetual care trust agreement proposed by the perpetual care cemetery shall be submitted to the Secretary of State.

(b) Each perpetual care cemetery shall be under a continuing duty to file with the Secretary of State any and all changes, amendments, or revisions of the perpetual care trust agreement.

(c) Any proposed amendment or change to the perpetual care trust agreement on file with the Secretary of State may be reviewed by the Secretary of State, and if reviewed, the perpetual care cemetery shall be notified in writing of any changes required for compliance with the Act and the rules and regulations promulgated thereunder. The perpetual care cemetery shall have thirty (30) days from the receipt of the written notice in which to respond and act upon changes to the perpetual care trust agreement required by the Secretary of State.

(4) Certification. Each Perpetual Care Trust Fund Agreement submitted to the Secretary of State must include a certification clause verifying that the agreement is in accordance with the Act and the Rules and Regulations.

Cite as Ga. Comp. R. & Regs. R. 590-3-3-.09
Authority: O.C.G.A. Secs. 10-14-14, 44-3-134, 44-3-139.
History. Original Rule entitled "Perpetual Care Trust Agreement" was filed as Emergency Rule 590-3-3-0.10-.09 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.
Amended: Filed December 20, 1988;effective January 9, 1989.
Repealed: New Rule, same title adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.
Amended: F. Feb. 19, 2013; eff. Mar. 11, 2013.

Rule 590-3-3-.10. Charges for Removal and Relocation of Monuments.

No cemetery owner may charge a fee for the removal, reinstallation or relocation of any monument unless the fee is included in the schedule of charges filed with the Registration Application or as an amendment thereto.

Cite as Ga. Comp. R. & Regs. R. 590-3-3-.10
Authority: O.C.G.A. Sec. 10-14-14.
History. . Original Rule entitled "Charges for Removal and Relocation of Monuments" adopted. F. Nov. 6, 2001; eff. Nov. 26, 2001.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-3-.11. Additional Exemptions from Registration.

In addition to those exceptions expressly provided for by statute, pursuant to O.C.G.A. Sec. 10-14-4(e), a cemetery which meets the following criteria and which would otherwise be required to register under the Act shall be exempt from registration:

(1) The cemetery is owned and operated by a Georgia not-for-profit corporation, or a foreign not-for-profit corporation qualified to do business in Georgia;

(2) No officer, director or member of such corporation receives any compensation in connection with the ownership, operation or management of the cemetery property;

(3) No officer, director or member of such corporation, nor any immediate family member thereof, conducts any business on the property of such cemetery, or supplies any cemetery or funeral services or merchandise on such property, provided that such an individual may be paid a reasonable amount for property maintenance services actually performed by such person on the property;

(4) The cemetery is less than 25 acres in size; and

(5) No consideration is received by the cemetery or its owner for any cemetery or funeral services or merchandise other than for burial spaces, provided that owners of such burial spaces, their family members, friends and heirs, may contribute funds and in-kind goods and services to the corporation for the purpose of maintaining the cemetery property.

Cite as Ga. Comp. R. & Regs. R. 590-3-3-.11
Authority: O.C.G.A. Secs. 10-14-4, 10-14-14.
History. Original Rule entitled "Additional Exemptions from Registration" adopted. F. Nov. 6, 2001; eff. Nov. 26, 2001.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-3-.12. Allocation of Funds.

In the event any sale is made on an installment basis, the perpetual care trust fund shall receive the appropriate percentage of each installment payment first prior to any additional allocation of funds until the minimum amount required to be placed in the perpetual care trust fund, pursuant to the Act, has been paid in full.

Cite as Ga. Comp. R. & Regs. R. 590-3-3-.12
Authority: O.C.G.A. Sec. 10-14-14.
History. Original Rule entitled "Allocation of Funds" adopted. F. May 19, 2005; eff. June 8, 2005.

Subject 590-3-4. PRENEED DEALERS.

Rule 590-3-4-.01. Preneed Escrow Accounts.

(1) Establishment of Account. Each preneed dealer that has not established a trust fund account pursuant to Section 10-14-7 or 10-14-7.1 of the Act shall establish one or more preneed escrow accounts into which deposits shall be made pursuant to Section 10-14-7 of the Act. Said accounts shall be either segregated (containing the deposits required to be

made as a result of a single transaction) or aggregated (containing deposits required to be made as a result of multiple transactions). In the event all services and merchandise under a contract have been provided or funds for any merchandise or services have been refunded pursuant to the Act and these Rules, and said funds were in a segregated account, the account may be closed upon payment of funds from the account. In the event funds are originally deposited into an aggregated account, they may subsequently be deposited into a segregated account, provided the amount of funds deposited on account of any transaction is not less than the amount which would be required to be refunded pursuant to Section 10-14-17(a)(3) or 10-14-17(a)(4) of the Act and these Rules.

(2) Funding through Insurance.

(a) In the event that an insurance policy is opened for the purpose of funding preneed burial or funeral services and is titled, either solely or jointly, in the name of a registrant, or if the purchaser makes an irrevocable payable-upon death designation in favor of the registrant, the registrant must establish and maintain a record of each insurance policy and the funds allocated to such policy. The insurance policy will be subject to the filing requirements of the Act and the Rules and Regulations with regard to the account.

(b) In the event thatan Insurance Policyis titled in the name of the customer only and no irrevocable payable-upon-death designation is made, the funds will not be subject to the escrow requirements of the Act. However, the cost of the insurance policy must be paid directly by the customer to the insurance provider. If a registrant takes possession of or accumulates funds for the purpose of purchasing a Insurance Policy on the customer's behalf, this will render the transaction a preneed sale requiring the registrant to hold the Insurance Policy in escrow as an asset of the account and will be subject to the funding and filing requirements of the Act and the Rules and Regulations.

(3) Funding through Certificates of Deposit for Segregated Accounts.

(a) Dealer Owned Certificates of Deposit. In the event that a Certificate of Deposit opened for the purpose of funding preneed burial or funeral services is titled jointly in the name of the registrant, in the registrant's federal employee identification number (FEIN) or if the purchaser makes an irrevocable payable-upon death designation in favor of the registrant, the registrant must establish and maintain a preneed escrow account as required by the Act. The Certificate of Deposit must be held in escrow as an asset of the account and will be subject to the funding and filing requirements of the Act and the Rules and Regulations with regard to the account.

(b) Customer Owned Certificates of Deposit. In the event thata Certificate of Depositis titled in the name of the customer only and no irrevocable payable-upon-death designation is made, the funds will not be subject to the escrow requirements of the Act. However, the cost of the Certificate of Deposit must be

paid directly by the customer to the financial institution. If a registrant takes possession of or accumulates funds for the purpose of purchasing a Certificate of Deposit on the customer's behalf or if a registrant takes possession of a Certificate of Deposit, which by its terms is payable to the bearer rather than to the order of the customer, this will render the transaction a preneed sale requiring the registrant to hold the Certificate of Deposit in escrow as an asset of the account and will be subject to the funding and filing requirements of the Act and the Rules and Regulations.

(c) Transfer of Funds. No less than ten (10) days prior to transfer of escrow funds, the registrant shall file a notice with the Office of the Secretary of Statecontaining the following:

1. The name, location, mailing address, and telephone number of the registrant's principal business location in Georgia, together with any trade names associated with each location;

2. If transferring funds between one or more accounts within the same depository, the names of the accounts and account numbers being transferred. If transferring funds from one depository to another, the name, address, location, and telephone number of the new depository and the names of the accounts and account numbers being transferred to the new depository;

3. A dated and notarized signature of the individual duly authorized to sign the notice filing, including the signatory's printed name and title. If the cemetery is incorporated, the president or authorized individual shall sign;

   Within thirty (30) days after transferring funds from one depository to another, the former depository shall submit to the Secretary of State verification listing each certificate of deposit held in escrow as of the date of closing of the preneed escrow account(s); and

   Within thirty (30) days after transferring funds from one depository to another, the new depository shall submit to the Secretary of State verification listing each certificate of deposit to be held in escrow as of the date of opening of the new preneed escrow account(s).

(4) Depositories.

(a) In addition to those depositories allowed in Section 10-14-7(c) of the Act, the preneed escrow account may be established and maintained with an insurance company which has an A. M. Best rating of B+ or better and is licensed and in good standing with the Georgia Insurance Commissioner.

(b) Any other financial institution not specifically noted in this Rule or the Act as an authorized depository may petition the Secretary of State for approval. The Secretary of State may approve such institution as a depository if it demonstrates to the Secretary of State its financial soundness and responsibility and complies with the other requirements of this Rule.

(c) No less than ten (10) days prior to moving a preneed escrow account from one depository to another, the preneed dealer required to establish and maintain a preneed escrow account pursuant to Section 10-14-7 of the Act shall file a notice with the Office of the Secretary of State containing the following:

1. The name, location, mailing address, and telephone number of the registrant's principal business location in Georgia, together with any trade names associated with each location;

2. The name, address, location, and telephone number of the new depository and the names of the accounts and account numbers being transferred to the new depository; and

3. A dated and notarized signature of the individual duly authorized to sign the notice filing, including the signatory's printed name and title. If the cemetery is incorporated, the president or authorized individual shall sign.

(d) Within thirty days after moving a preneed escrow account from one depository to another, the former depository shall submit certification to the Office of the Secretary of State showing the actual account balances for the preneed escrow account as of the date of closing of the preneed escrow account.

(e) Within thirty days after moving a preneed escrow account from one depository to another, the new depository shall submit written verification to the Office of the Secretary of State showing the actual account balances for the preneed escrow account as of the date of opening of the new preneed escrow account.

(5) Escrow Agent.

(a) The following persons may act as the escrow agent of the preneed escrow account:

1. A bank incorporated pursuant to Official Code of Georgia Annotated Section 7-1-390, *et seq.*, as now or hereafter amended, and located in this state and authorized to exercise and validly exercising the powers of a fiduciary pursuant to Article 2, Chapter 1 of Title 7 of the Official Code of Georgia Annotated, as now or hereafter amended;

2. A building and loan or savings and loan association incorporated pursuant to Official Code of Georgia Annotated Section 7-1-770, *et seq.*, as now or hereafter amended, and located in this state and authorized to exercise and

validly exercising the powers of a fiduciary pursuant to Article 7, Chapter 1 of Title 7 of the Official Code of Georgia Annotated, as now or hereafter amended;

3. A trust company incorporated pursuant to Official Code of Georgia Annotated Section 7-1-390, *et seq.*, as now or hereafter amended, and located in this state, and authorized to exercise and validly exercising the powers of a fiduciary pursuant to Article 2, Chapter 1 of Title 7 of the Official Code of Georgia Annotated, as now or hereafter amended;

4. A national bank with an office located in this state and authorized to act as a fiduciary under the laws of the United States; and

5. A federally chartered savings and loan association with an office located in this state and authorized to act as a fiduciary under the laws of the United States.

(b) Any prospective escrow agent not specifically described in this Rule may petition the Secretary of State for approval.

(c) No less than ten (10) days prior to any change or substitution of the escrow agent of a preneed escrow account, the preneed dealer required to establish and maintain a preneed escrow account pursuant to Section 10-14-7 of the Act shall file a notice with the Office of the Secretary of State containing the following:

1. The name, location, mailing address, and telephone number of the registrant's principal business location in Georgia, together with any trade names associated with each location;

2. The name, telephone number and address, including city, state and zip code, of the new escrow agent;

3. A copy of the preneed escrow agreement executed by the registrant and accepted by the new escrow agent, and evidence satisfactory to the Secretary of State of the deposit into such account of the amounts required under Section 10-16-7 of the Act, the preneed escrow agreement being conditioned only upon receipt by the Secretary of State of the notice required by this Rule;

4. The name, address, location, and telephone number of the preneed escrow account depository or depositories, the names of the accounts, and the account numbers;

5. A dated and notarized signature of the individual duly authorized to sign the notice filing, including the signatory's printed name and title. If the cemetery is incorporated, the president or authorized individual shall sign.

(d) Within thirty days after any change or substitution of the escrow agent of a preneed escrow account, the prior escrow agent shall submit to the Office of the Secretary of State the following:

1. The yearly financial report set forth in Section 10-14-7(h) of the Act calculated based on the year-to-date with respect to the preneed escrow account; and

2. Written certification of the amount of funds transferred to the new escrow agent.

(e) Within thirty days after any change or substitution of the escrow agent of a preneed escrow account, the new escrow agent shall submit to the Office of the Secretary of State verification of the funds received.

(6) If amounts received pursuant to Section 10-14-7 of the Act are deposited in a preneed escrow account which bears interest, a sum not less than the lesser of 10 percent of the escrowed amount or one-half of the interest earned as of the date of release may be retained by the preneed dealer as an administrative fee for reimbursement of the preneed dealer for costs. The remaining interest shall be retained in the account with the principal and shall be held, accounted for and transferred in the same manner as the principal amount to assure delivery of the same quality of service and merchandise for which the preneed contract was made.

(7) Conversion of Preneed Escrow Account to Trust

(a) A preneed dealer that established one or more preneed escrow accounts into which deposits were made pursuant to Section 10-14-7 of the Act may transfer one or more existing preneed escrow accounts into a preneed trust account pursuant to Sections 10-14-7 or 10-14-7.1 of the Act, as applicable.

(b) No less than ten (10) days prior to transferring a preneed escrow account to a preneed trust account, the preneed dealer required to establish and maintain such account pursuant to Section 10-14-7 or 10-14-7.1 1 shall file a notice with the Office of the Secretary of State containing the following:

1. The name, location, mailing address, and telephone number of the registrant's principal business location in Georgia, together with any trade names associated with each location;

2. The name, telephone number and address, including city, state and zip code, of the new trustee of the preneed trust fund;

3. A copy of the preneed trust fund agreement executed by the registrant and accepted by the new trustee;

4. The names of the accounts and account numbers being transferred from the preneed escrow account.

5. The name, address, location, and telephone number of the preneed trust fund depository or depositories, the names of the trust accounts, and the trust account numbers;

6. A dated and notarized signature of the individual duly authorized to sign the notice filing, including the signatory's printed name and title. If the cemetery is incorporated, the president or authorized individual shall sign; and

7. If the person signing did not prepare the notice filing, the printed name, signature, and title of the person who prepared the notice filing is required.

(c) Within thirty days after transferring a preneed escrow account to a preneed trust account, the former escrow agent shall submit to the Office of the Secretary of State:

1. The yearly financial report set forth in Section 10-14-7(h) of the Act calculated based on the year-to-date with respect to the preneed account(s); and

2. Written certification showing the account balances for the escrow account as of the date of closure of the preneed escrow account;

(d) Within thirty days after transferring a preneed escrow account to a preneed trust account, the the new depository shall submit to the Office of the Secretary of State verification showing the account balances for the preneed trust as of the date of opening of the new preneed trust;

Cite as Ga. Comp. R. & Regs. R. 590-3-4-.01
Authority: O.C.G.A. §§ 10-14-3.1 and 10-14-14.
History. Original Rule entitled "Preneed Escrow Accounts" was filed as Emergency Rule 590-3-4-0.11-.01 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.
Amended: Filed December 20, 1988; effective January 9, 1989.
Repealed: New Rule, same title held in Reserve. F. July 26, 2000; eff. August 15, 2000.
Amended: New Rule of same title adopted. F. Jan 17, 2002; eff. February 6, 2002.

Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.
Amended: F. May 21, 2013; eff. June 10, 2013.

Rule 590-3-4-.02. Burial Merchandise and Services.

Subject to the provisions of Sec. 10-14-7(d) of the Act, delivery of burial merchandise for the purposes of Sec. 10-14-7(d) may be accomplished by either:

(1) Actual and physical delivery of the burial merchandise to the purchaser or the purchaser's representative at a place designated by him or her at the time of need, or in the case of merchandise other than a monument or outer burial container intended for use with a casket to be buried, and not intended to be affixed to realty above ground and to be monumental in character, at a time prior to the time of need; or

(2) With the permission of the purchaser or the purchaser's representative, physical attachment of the burial merchandise, if it is a monument, to a burial space, individual crypt or mausoleum space owned by the purchaser.

Cite as Ga. Comp. R. & Regs. R. 590-3-4-.02
Authority: O.C.G.A. Secs. 10-14-14, 10-14-7, 44-3-139, 44-3-134.
History. . Original Rule entitled "Burial Merchandise" was filed as Emergency Rule 590-3-4-0.11-.02 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency.
Amended: Filed December 20, 1988; effective January 9, 1989.
Repealed: New Rule entitled "Burial Merchandise and Services" adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-4-.03. Preneed Escrow Agreement.

(1) Filing.

  (a) Each preneed dealer shall file with the Secretary of State an executed copy of a preneed escrow agreement with an application for registration as required by the Act.

(2) Review. Any preneed escrow agreement may be subject to the review and approval of the Secretary of State to determine compliance with the Act and these Rules. In the event the Secretary of State determines, after review, that the agreement does not comply with the Act and applicable Rules, the preneed dealer shall be notified in writing by the Secretary of State regarding any changes required to be made for compliance with the Act and the Rules.

(3) Preneed escrow agreements on file with the Secretary of State prior to July 1, 2000, may be reviewed by the Secretary of State and, if reviewed, the preneed dealer shall be notified in writing of any changes required for compliance with the Act and the rules and regulations promulgated thereunder.

(4) A preneed dealer, after written notification by the Secretary of State, shall have a reasonable period of time, not to exceed thirty (30) days, in which to respond and act upon changes to the preneed escrow agreement required by the Secretary.

(5) Amendments.

(a) Each proposed amendment or change to the preneed escrow agreement proposed by the preneed dealer shall be submitted to the Secretary of State.

(b) Each preneed dealer shall be under a continuing duty to file with the Secretary of State any and all changes, amendments, or revisions of the preneed escrow agreement.

(c) Any proposed amendment or change to the preneed escrow agreement on file with the Secretary of State may be reviewed by the Secretary of State and, if reviewed, the preneed dealer shall be notified in writing of any changes required for compliance with the act and the rules and regulations promulgated thereunder. The preneed dealer shall have thirty (30) days from the receipt of the written notice in which to respond and act upon changes to the preneed escrow agreement required by the Secretary of State.

(4) Certification. Each preneed escrow agreement drafted by the registrant or its legal representative submitted to the Secretary of State must include a certification clause verifying that the agreement is in accordance with the Act and the Rules and Regulations.

Cite as Ga. Comp. R. & Regs. R. 590-3-4-.03
Authority: O.C.G.A. Secs. 10-14-14, 44-3-139, 44-3-134, 44-3-137.
History. Original Rule entitled "Preneed Escrow Agreement" was filed as Emergency Rule 590-3-4-0.11-.03 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983; effective October 5, 1983, as specified by the Agency
Amended: Filed December 20, 1988; effective January 9, 1989.
Repealed: New Rule, same title adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.
Amended: F. Feb. 19, 2013; eff. Mar. 11, 2013.

Rule 590-3-4-.04. Records.

(1) Corporate and Financial Records.Each preneed dealer required to register with the Secretary of State shall keep and maintain its business and financial records for the

preneed dealer and its preneed escrow account as segregated records separate and apart from the records of any other preneed dealer, financial accounts, or business, including any other business of the preneed dealer, preneed dealer salespersons, or escrow account agent.

(2) Sales Contracts.

(a) Sales of burial and funeral merchandise and services by or on behalf of a preneed dealer required to register with the Secretary of State shall be made and evidenced by a written sales contract.

1. The sales contracts for each preneed dealer shall be consecutively numbered in one continuous numerical sequence.

2. If the sales contract also includes items, property, or services sold by a cemetery required to be registered with the Secretary of State, the sales contracts shall be in sequential numerical order as outlined in Rule 590-3-3-.03(1) so that all sales contracts will be consecutively numbered for the entire cemetery.

3. Each preneed dealer shall maintain a legible copy (photostatic or otherwise) of every executed sales contract. Said copies shall be available for inspection upon request by representatives of the Secretary of State.

(b) Any additional sales to or material contractual modifications or amendments with previous purchasers shall be made pursuant to a new contract with a new contract number.

(3) Sales Journal. Each preneed dealer required to register with the Secretary of State shall keep and maintain a sales journal at the preneed dealer's principal place of business. Said sales journal shall contain, at a minimum, the following items:

(a) A record of each individual sales contract, indicating the sales contract number;

(b) The date of execution of each specified sales contract;

(c) The name of the person who purchased burial merchandise pursuant to each specified sales contract;

(d) The total sales price of the merchandise subject to each specified sales contract;

(e) The total amount due to the preneed escrow account(s);

(f) A list of burial merchandise sold pursuant to each specified sales contract; and

(g) An indication whether the contract is an at need or preneed sale.

(4) Joint Sales Record. If a person, as defined by the Act, is registered with the Secretary of State both as a cemetery and as a preneed dealer, the required records regarding sales contracts and sales journal to be kept pursuant to Rules 590-3-3-.03 and 590-3-3-.04 shall be kept jointly so that there will be one sales journal with consecutively numbered sales contracts for the entire cemetery.

(5) Burial Merchandise Inventory Log.

(a) A log shall be kept of all delivered burial merchandise. Said log shall contain the name of the purchaser, the number of the sales contract, the date the sales contract was executed, and the date the merchandise was delivered.

(b) Each item of delivered burial merchandise shall have the number of the sales contract under which it was sold affixed to it.

(c) The circumstances or acts that constitute delivery for the purposes of this Rule shall be the same as those stated in Rule 590-3-4-.02 and the Act.

(d) The burial merchandise inventory log shall be maintained in this state and shall be available for inspection upon request by the representatives of the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-3-4-.04
Authority: O.C.G.A. Secs. 10-14-14, 44-3-134, 44-3-137, 44-3-139.
History. Original Rule entitled "Records" was filed as Emergency Rule 590-3-4-0.11-.04 on July 7, 1983; effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. Filed September 9, 1983, effective October 5, 1983, as specified by the Agency.
Amended: Filed December 20, 1988; effective January 9, 1989.
Repealed: New Rule, same title adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. Nov. 6, 2001; eff. Nov. 26, 2001.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-4-.05. Refunds.

(1) The amount of interest accruing on the sales price of merchandise and services described in O.C.G.A. § 10-14-17 and to be refunded pursuant to the provisions thereof shall be computed as follows:

(a) In the case of a segregated account, the interest shall be the balance present in the account at the time the refund is made less the amount originally deposited.

(b) In the case of an aggregated account, any registrant:

1. May calculate the amount of interest or other earnings attributable to the individual initial deposit by multiplying the average U.S. Treasury Bill yield for the period during which the purchase price was on deposit by the amount of the initial deposit. The average U.S. Treasury Bill yield for said period shall be determined by averaging the yield on the three-month U.S. Treasury Bill on the last day of each calendar quarter during said period; or

2. In the alternative, a registrant may by rule filed with the Secretary set forth a formula reasonably calculated to compute the proportionate amount of the earnings of such account during the period between the time of the required initial deposit and the time of the refund; provided that in no event shall the proportional earnings on such account be less than the amount which would result from multiplying the initial deposit by one-half (1/2) of the legal rate of interest during such period on a simple interest basis. Records reflecting any calculation made pursuant to any such rule shall be retained in the records of the registrant and provided upon request to the person requesting the refund.

(2) It shall not be a violation of the Act for a registrant to refund the incorrect amount of interest provided it can demonstrate that it has made a good faith attempt to refund the correct amount and, upon a determination by the Secretary of State, after notice and opportunity for a hearing, that the incorrect amount was refunded and represented no more than a 10% variance from the correct amount, and that the registrant promptly refunds any difference between the amount originally refunded and the correct amount, together with interest at the legal rate.

Cite as Ga. Comp. R. & Regs. R. 590-3-4-.05
Authority: O.C.G.A. Secs. 44-3-137, 44-3-139.
History. Original Rule entitled "Notice of Pending Litigation" was filed as Emergency Rule 590-3-4-0.11-.05 on July 7, 1983, effective July 1, 1983, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Emergency Rule repealed. Filed September 9, 1983, effective October 5, 1983, as specified by the Agency.
Repealed: New Rule, entitled "Refunds" held in Reserve. F. July 26, 2000; eff. August 15, 2000.
Amended: New Rule entitled "Refunds" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-4-.06. Reports Subsequent to Effective Registration.

Each preneed registrant required to register with the Secretary of State shall file an annual report in a form specified by the Secretary of State.

(1) The report shall be deemed to be timely filed if it is either:

(a) Received in the office of the Division of Securities and Business Regulation during business hours not later than March 31 of each calendar year, or

(b) If it is mailed certified mail, return-receipt requested and post-marked not later than March 31 of each calendar year.

(2) In the case of an aggregated account, the report must include all supporting documents including, but not limited to, a calendar year end bank statement.

Cite as Ga. Comp. R. & Regs. R. 590-3-4-.06
Authority: O.C.G.A. Secs. 10-14-14, 44-3-137, 44-3-139.
History. Original Rule entitled "Refunds" adopted. F. Nov. 6, 2001; eff. Nov. 26, 2001.
Repealed: New Rule entitled "Reports Subsequent to Effective Registration" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-4-.07. Preneed Trust Fund.

(1) Establishment of Trust Fund. Each preneed dealer that sells burial or funeral merchandise on a preneed basis or preneed burial or funeral services, other than preneed funeral services described in Section 10-14-7.1 of the Act, and has not established either an escrow account pursuant to Section 10-14-7 of the Act or a trust account for preneed funeral services pursuant to Section 10-14-7.1 of the Act shall establish a trust fund into which deposits shall be made pursuant to Section 10-14-7 of the Act.

(2) Preneed Trust Agreement.

(a) Each preneed dealer shall be under a continuing duty to file with the Secretary of State any and all changes, amendments, or revisions to the preneed trust agreement filed pursuant to Section 10-14-4(b)(2)(L) of the Act.

(b) Each preneed trust agreement filed with the Secretary of State must include a certification clause verifying that the agreement is in accordance with the Act and the Rules and Regulations.

(3) Depositories.

(a) No less than ten (10) days prior to transferring a preneed trust fund from one depository to another, the preneed dealer required to establish and maintain the preneed trust fund pursuant to Section 10-14-7 of the Act shall file a notice with the Office of the Secretary of State containing the following:

1. The name, location, mailing address, and telephone number of the registrant's principal business location in Georgia, together with any trade names associated with each location;

2. The name, address, location, and telephone number of the new depository and the names of the accounts and account numbers being transferred to the new depository;

3. A dated and notarized signature of the individual duly authorized to sign the notice filing, including the signatory's printed name and title. If the cemetery is incorporated, the president or authorized individual shall sign.

(b) Within thirty days after transferring a preneed trust fund from one depository to another, the former depository shall submit to the Office of the Secretary of State certification showing the actual account balances for the preneed trust account as of the date of closing of the preneed trust account.

(c) Within thirty days after transferring a preneed trust fund from one depository to another, the new depository shall submit to the Office of the Secretary of State verification showing the actual account balances for the preneed trust account as of the date of opening of the new preneed trust account.

(4) Trustee of Preneed Trust Fund.

(a) No less than ten (10) days prior to any change or substitution of the trustee of a preneed trust fund, a preneed dealer shall file a notice with the Secretary of State that contains the following:

1. The name and registration number of the preneed dealer or, if an exempt preneed dealer, related registration number;

2. The registrant's mailing address, including city, state and zip code, and telephone number;

3. The name, telephone number and address, including city, state and zip code, of the new trustee of the preneed trust fund;

4. A copy of the preneed trust fund agreement executed by the registrant and accepted by the new trustee;

5. The name, address, location, and telephone number of the preneed trust fund depository or depositories, the names of the accounts, and the account numbers;

6. A dated and notarized signature of the individual duly authorized to sign the notice filing, including the signatory's printed name and title. If the cemetery is incorporated, the president or authorized individual shall sign; and

7. If the person signing did not prepare the notice filing, the printed name, signature, and title of the person who prepared the notice filing is required.

(b) Within thirty days after any change or substitution of the trustee of a preneed trust fund, the former trustee shall submit the yearly financial report set forth in Section 10-14-7(h) of the Act calculated based on the year-to-date with respect to the preneed trust fund and certification of the amount of funds transferred to the new trustee.

(c) Within thirty days after any change or substitution of the trustee of a preneed trust fund, the new trustee shall submit to the Secretary of State verification that the funds have been received.

Cite as Ga. Comp. R. & Regs. R. 590-3-4-.07
Authority: O.C.G.A. §§ 10-14-3.1 and 10-14-14.
History. Original Rule entitled "Preneed Trust Fund" adopted. F. May 21, 2013; eff. June 10, 2013.

Subject 590-3-5. MERCHANDISE DEALERS.

Rule 590-3-5-.01. Insurance and Bonding Requirements.

(1) No merchandise dealer, as a condition of installing merchandise in a perpetual care cemetery, may be required by the cemetery owner or any other person to maintain insurance, bonds or other coverage in excess of the following:

(a) Comprehensive general liability insurance covering premises operation, contractual liability, products and completed operations in the amount of $1,000,000 for each occurrence of bodily injury or property damage, with an aggregate liability limit of $2,000,000.

(b) Automobile liability insurance covering owned, non-owned, borrowed and hired vehicles, in the amount of $1,000,000 for each occurrence of bodily injury or property damage.

(c) In the case of a merchandise dealer otherwise required by applicable law to be so insured, worker's compensation and employer's liability insurance in an amount of $100,000 for each accident, with an aggregate limit of $500,000.

(d) Cemetery compliance bond in the amount of $10,000 guaranteeing that work performed is in compliance with the cemetery's rules and regulations, providing that no such bond may be required in the event the merchandise dealer maintains the bond described in subparagraph (e) of this paragraph. In lieu of a compliance

bond the Secretary of State will accept as evidence of financial responsibility the deposit in trust of:

1. A certificate of deposit or letter of credit evidencing a deposit with a financial institution in the amount of $10,000 payable to the applicant and assigned to the Secretary of State;

2. An irrevocable letter of credit addressed to the Secretary of State in the amount of $10,000, insured by the Federal Deposit Insurance Corporation or other governmental agency, or a state or federally chartered credit union insured under 12 U.S.C. Section 1781 of the Federal Credit Union Act and conditioned only upon the rendering of a judgment in which the applicant is found liable for damages; or

3. Obligations of the United States, an agency thereof, or the State of Georgia which mature in not more than one year and has a market value as of the date of deposit of at least $10,000.

(e) As an alternative to the bond described in subparagraph (d) above, the merchandise dealer may post a bond with the Secretary of State in the amount of $25,000, in a form and with a company satisfactory to the Secretary of State, with language providing that the bond will cover the costs of correction of the dealer's failure to install merchandise in accordance with the rules and regulations of the cemeteries in which it has installed merchandise in the event of a finding by the Secretary of State or a court of competent jurisdiction that the dealer is so liable. In lieu of a bond the Secretary of State will accept as evidence of financial responsibility the deposit in trust of:

1. A certificate of deposit or letter of credit evidencing a deposit with a financial institution in the amount of $25,000 payable to the applicant and assigned to the Secretary of State;

2. An irrevocable letter of credit addressed to the Secretary of State in the amount of $25,000, insured by the Federal Deposit Insurance Corporation or other governmental agency, or a state or federally chartered credit union insured under 12 U.S.C. Section 1781 of the Federal Credit Union Act and conditioned only upon the rendering of a judgment in which the applicant is found liable for damages; or

3. Obligations of the United States, an agency thereof, or the State of Georgia which mature in not more than one year and has a market value as of the date of deposit of at least $25,000.

(f) Such deposits shall be held for the benefit of all persons to whom the applicant is liable for damages under this rule for a period of one year after such applicant's registration has expired or been revoked; provided, however, such deposits shall

not be released at any time while there is an action pending against the applicant (including any direct appeal of such action or an appeal based on a petition for certiorari jurisdiction), of which the Secretary of State has notice, in a court of competent jurisdiction in which it is alleged that the applicant is liable for damages under this rule. Such deposits shall not be released except upon application to and the written order of the Secretary of State. The Secretary of State shall have no liability for any such release of any deposit or part thereof made by him in good faith. The Secretary of State may designate any regularly constituted state depository having trust powers domiciled in this state as a depository to receive and hold any such deposit. Any such deposit so held shall be at the expense of the applicant. Such depository shall give to the Secretary of State a proper trust and safekeeping receipt upon which the Secretary of State shall give an official receipt to the applicant. The State of Georgia shall be responsible for the safekeeping and return of all deposits made pursuant to this rule. So long as the applicant complies with this rule, the applicant may demand, receive, bring an action for, and recover the income from the securities deposited or may exchange and substitute for the letter of credit or securities deposited or a part thereof, with the approval of the Secretary of State, a letter of credit or securities of the kinds specified in this rule of equivalent or greater value. No judgment creditor or other claimant of the applicant shall levy upon any deposit held pursuant to this rule or upon any part thereof, except as specified in this subsection. Whenever any person shall file an action in a court of competent jurisdiction in which it is alleged that the applicant is liable for damages under this rule, such person, in order to secure his recovery, may give notice to the Secretary of State of such alleged liability and of the amount of damages claimed, after which notice the Secretary of State shall be bound to retain, subject to the order of the Superior Court of Fulton County, as provided in subsection (g) of this rule, a sufficient amount of the deposit to pay the judgment in the action.

(g) In the event that the applicant prevails in such action and in the event that such deposits have been held by the Secretary of State for a period of at least one year after the applicant's registration has expired or been revoked, then such deposits shall be released to the applicant; provided, however, such deposits shall not be released at any time while there is an action pending against the applicant (including any direct appeal of such action or an appeal based on a petition for certiorari jurisdiction), of which the Secretary of State has notice, in a court of competent jurisdiction in which it is alleged that the applicant is liable for damages under this rule. If a judgment is rendered in such action by which it is determined that the applicant is liable for damages under this rule and the applicant has not paid the judgment within ten days of the date the judgment became final or if the applicant petitions the Supreme Court of the United States to take certiorari jurisdiction over such action and the applicant has not paid the judgment within ten days of the date the Supreme Court of the United States denies certiorari jurisdiction or within ten days of the date the Supreme Court of the United States affirms the judgment, then such person may petition the Superior

Court of Fulton County for an order directing the Secretary of State to reduce such deposit or a portion thereof sufficient to pay the judgment to cash or its equivalent and to pay such judgment to the extent the judgment may be satisfied with the proceeds of the deposit. If there shall remain any residue from the deposit and if at least one year has passed since the expiration or revocation of the applicant's registration, the Secretary of State shall pay such residue to the applicant, taking his receipt for the residue, which shall be filed and recorded with the other papers of the case, unless there is an action pending against the applicant (including any direct appeal of such action or an appeal based on a petition for certiorari jurisdiction), of which the Secretary of State has notice, in a court of competent jurisdiction in which it is alleged that the applicant is liable for damages under this rule, in which case the Secretary of State shall hold or dispose of such residue in accordance with the provisions of this subsection relating to the holding or disposing of the entire deposit. If more than one final judgment is rendered against the applicant for violation of this rule, the judgment creditors shall be paid in full from such deposit or residue thereof, to the extent the deposit or residue is sufficient to pay the judgments, in the order in which the judgment creditors petitioned the Superior Court of Fulton County.

(h) Anything in this rule to the contrary notwithstanding, the Secretary of State shall comply with any order of a Georgia or United States court of competent jurisdiction to turn over any deposit held by him or her pursuant to subsection (1)(d) or (1)(e) of this rule or the proceeds from any bond held by him or her pursuant to subsection (1)(d) or (1)(e) of this rule to a trustee or receiver for the use and sole benefit of persons on whose behalf the Secretary of State holds such deposit or proceeds.

(i) No merchandise dealer shall be required to maintain insurance described in subparagraph (b) or (c) of this rule if insurance otherwise maintained provides equivalent coverage.

(2) With respect to subsection (1)(a), (1)(b), and (1)(c) hereof, in no event shall a cemetery owner require insurance coverage of any type in an amount greater than its own coverage.

(3) No merchandise dealer, as a condition of installing merchandise in a perpetual care cemetery, may be required by the cemetery owner or any other person to provide proof of any insurance required by rule or regulation of the cemetery, as permitted by subsection (1)(a), (1)(b), (1)(c), (1)(d) or (1)(e), more frequently than once per year; provided, however, a cemetery may require a merchandise dealer to provide proof of any material change in coverage five (5) days prior to the installation of merchandise in the cemetery.

Cite as Ga. Comp. R. & Regs. R. 590-3-5-.01
Authority: O.C.G.A. Secs. 10-14-14, 10-14-16, 10-14-17.
History. Original Rule entitled "Insurance and Bonding Requirements" adopted. F. July 26, 2000; eff. August 15, 2000.
Repealed: New Rule of same title adopted. F. Jan. 17, 2002; eff. Feb. 6, 2002.

Repealed: New Rule of same title adopted. F. Aug. 26, 2004; eff. Sept. 15, 2004.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-5-.02. Installation of Merchandise.

(1) A cemetery owner may require that any person engaged in the retail sale of merchandise or merchandise services to consumers who wishes to install, place or set merchandise provide the cemetery with evidence that the person has a valid registration with the Secretary of State. No cemetery owner may refuse to allow a merchandise dealer to install merchandise due to any failure to provide such evidence unless and until the cemetery has obtained confirmation from the Secretary of State that such person is not registered. If a cemetery wishes to require proof that a merchandise dealer has obtained all necessary local or occupational licenses, then the cemetery may require copies of such licenses. No merchandise dealer, as a condition of installing merchandise in a perpetual care cemetery, may be required by the cemetery owner or any other person to provide proof of registration with the Secretary of State or other licenses more frequently than once per year. Provided, however, a cemetery may by rule require a merchandise dealer to provide proof of a change in registration with the Secretary of State or the status of other licenses five (5) days prior to the installation of merchandise in the cemetery.

(2) Rules and Regulations.

(a) A cemetery may adopt rules and regulations setting forth reasonable standards for merchandise installed in the cemetery, provided that if a cemetery does adopt such rules and regulations, those rules and regulations shall include:

1. The style and size of merchandise or its foundation;

2. The content and material of which the merchandise and/or foundation is to be constructed;

3. The locations or gardens in which different merchandise may be installed;

4. The manner of installation of either a flat or upright monument;

5. The specific location on the grave for the installation of either flat or upright monuments;

6. The requirements for the removal and replacement of merchandise in the path that any installation equipment must take to install specific merchandise;

7. The clean-up necessary after installation; and

8. Any limitations on the date or time of installations.

(b) In all cases, a cemetery must comply with its own minimum standards and rules and regulations, or those standards and rules and regulations shall be deemed waived as to any other person. Rules and regulations adopted by the cemetery pursuant to this Rule shall be incorporated in the rules and regulations required to be filed with the Secretary of State pursuant to section 10-14-4(b)(1)(E) of the Act and shall be subject to all other requirements and restrictions imposed by the Act or Rules promulgated thereunder.

(c) If a cemetery has a location on its property where it places or stores excess dirt, the installer or merchandise dealer shall be permitted to place excess dirt resulting from an installation in that cemetery at that location.

(d) Nothing in this rule shall be construed to allow a cemetery owner or its affiliates to have exclusive rights to merchandise construction or installation within the cemetery or any part of the cemetery, nor shall any rule or regulation set up requirements that have the effect of so providing.

(3) Approval of Merchandise.

(a) A cemetery owner may require that a person, not later than six (6) business days prior to a request for installation of merchandise in the cemetery, submit an application, on a form approved by the Secretary of State, for approval of merchandise to the cemetery reasonably depicting or describing the foundation, design, style, size, and content and material of the merchandise to be installed. A business day is defined as any day other than Saturday, Sunday or legal holiday. The cemetery owner may require the application to be accompanied by a sketch of the proposed merchandise with the proposed lettering. The cemetery may require the written approval of the owner(s) of the burial rights or his or her executor, administrator, or other legal representative to be on the application form submitted by the installer. Immediately following the execution of the purchase agreement, the application shall be transmitted to the cemetery for approval. The cemetery must notify the merchandise dealer of any nonconformity of the proposed merchandise within five (5) business days from the date that the completed application was received. If this approval is submitted by the installer with the application, the cemetery shall accept the signature of the owner(s) of the burial rights or his or her executor, administrator, or other legal representative if the signature is witnessed by the merchandise dealer or an agent or employee thereof. A cemetery may not require any other form be signed by the property owner, merchandise dealer or installer for the installation of the merchandise.

(b) If a cemetery does not by rule require submission of an application for approval of merchandise as permitted herein, a merchandise dealer or any person proposing to install merchandise in a cemetery may require any cemetery to approve or disapprove any proposed merchandise by submitting an application for approval of merchandise on a form approved by the Secretary of State.

(c) If, in the opinion of the cemetery owner, the merchandise depicted on an application for approval of merchandise submitted pursuant to this rule is not in compliance with the rules and regulations of the cemetery, the cemetery owner must so notify the merchandise dealer, in writing, postmarked within five (5) business days of the date that the completed application was received by the cemetery owner, setting forth each reason why the proposed merchandise is not in compliance.

(d) A cemetery may not refuse to allow installation of any merchandise presented for installation based upon a claim of noncompliance with the lawful rules of the cemetery unless:

1. an application for approval of merchandise was not submitted as required by cemetery rule or as permitted under subsection (b) hereof;

2. an application for approval of merchandise was submitted, but the cemetery notified the merchandise dealer of the reasons for noncompliance of the merchandise in the manner and within the time provided in subsection (c) hereof and the cemetery has proof of receipt by the merchandise dealer of such notification;

3. an application for approval of merchandise was submitted and approved, either affirmatively or by the failure to notify the merchandise dealer of noncompliance, but the merchandise presented for installation does not conform with the description of the merchandise contained in the application or with the depiction of the merchandise on the sketch submitted with the application, and the merchandise fails to conform to the valid rules of the cemetery in effect at the time of application;

4. the merchandise dealer contends that an application for approval of merchandise was submitted and approved, either affirmatively or by the failure to notify the merchandise dealer of noncompliance, but the merchandise dealer does not have either proof of affirmative approval or proof of receipt of the application by the cemetery; or

5. an application for approval of merchandise was approved by the cemetery, either affirmatively or by failure to notify of noncompliance, but the merchandise fails to conform to the valid rules of the cemetery in effect at the time of application, provided the cemetery owner immediately reimburse the purchaser for the full price of any merchandise ordered that cannot be returned and any other costs incurred by the purchaser in connection with the installation of the merchandise.

(e) If a cemetery has a facsimile machine available for general business purposes, it shall, if requested by the merchandise dealer or other person proposing to install merchandise, accept an application for approval of merchandise or a request for

installation and accompanying documents via facsimile, send a confirmation of receipt of any such application or request by facsimile by 5:00 p.m. the following business day, and notify the requesting party of any nonconformity of the proposed merchandise by facsimile within five (5) business days of the date that the completed application was received. If requested by a cemetery, a merchandise dealer shall send a confirmation of receipt of any notice of nonconformity by facsimile to the cemetery.

(f) A cemetery owner may not request that any person sign a contract or agreement or other similar document as a condition or prerequisite of allowing installation of merchandise by someone other than the cemetery, except an acknowledgement by the merchandise dealer or installer of receipt of the cemetery's rules and regulations and, unless provided on the application submitted by the installer, a statement by the owner(s) of the burial rights or his or her executor, administrator or other legal representative that he or she has approved merchandise and has authorized installation by a particular merchandise dealer or installer.

(g) The process of reviewing any application for approval of merchandise submitted pursuant to this Rule shall be considered an administrative function associated with the installation of the merchandise, and the cemetery may charge a fee to reimburse the cemetery for its actual costs incurred in processing the application as allowed by O.C.G.A. § 10-14-17(c)(2).

(4) The cemetery owner shall be the scheduling agent for all activities conducted within the cemetery. The scheduling of burials takes priority over all other activities. Within two (2) business days of a request for installation by the installing person, the cemetery shall schedule the installation of merchandise to occur within five (5) business days, provided all the proper authorizations and other requirements have been delivered to and approved by the cemetery. The cemetery owner may require that the time of installation be set so that the installation and the clean up can be accomplished prior to the normal closing time of the cemetery. Any installation limitation imposed by a cemetery shall be reasonable; any limitation which restricts the days or times during which installation will be permitted will be presumed to be unreasonable if the cemetery does not permit installations during at least twenty (20) hours during the course of a work week, which is defined as Monday through Friday from 9:00 a.m. to 5:00 p.m., for the scheduling of installations by persons other than the cemetery. This presumption may be rebutted by proof of circumstances demonstrating the reasonableness of the limitation. Once the installation has been scheduled, the cemetery shall not require the merchandise dealer or installer to obtain confirmation from the cemetery of the scheduled installation. A scheduled installation shall be subject to change by the cemetery, with reasonable notice being given by the cemetery to the installer of the need to reschedule the installation, in the event it received notification of a death of an owner of burial rights located in such a location that the installation of the merchandise would interfere with the burial. Anything less than twenty-four (24) hours notice will be presumed unreasonable. This presumption may be rebutted by proof of circumstances demonstrating the reasonableness of the notice.

(5) In the event a burial is taking place and in the determination of the cemetery the installation of merchandise will be considered an interference with the burial, the installing persons shall be required by the cemetery to withdraw until the funeral being conducted has concluded and those in attendance have left the cemetery at which time the installation of the merchandise may be continued.

(6) Prior to the scheduled time of merchandise installation, the cemetery shall mark the place on the grave where the merchandise is to be installed by placing a flag, or other marker, thereon. Nothing in this rule is intended to imply or require that a cemetery shall have to perform any design work or labor associated with installing merchandise at the gravesite. If the cemetery is requested by the merchandise installer to perform any design work or labor associated with installing merchandise at the gravesite, and the cemetery provides such service, the fee for such service shall be disclosed on the cemetery's schedule of charges.

(7) The cemetery owner shall not be liable for improper installation of merchandise not installed by the cemetery.

(8) Nothing in this rule shall be construed as requiring a cemetery to replace stolen merchandise or portions thereof, or to replace or repair merchandise that is damaged due to vandalism or other causes beyond the cemetery's control.

(9) Installation Fee.

(a) The cemetery may not require payment of the fee allowed by Sec. 10-14-17(c)(2) of the Act, with the exception of the costs permitted by Subsection (3)(g) of this Rule, prior to the time of the installation request.

(b) For purposes of determining the fee charged pursuant to Sec. 10-14-17(c)(2) of the Act, the cemetery owner may charge a fee of up to $50 relating to each contemporaneous installation by a third party of merchandise on a single grave lot or contiguous group of lots. The number of individual pieces in any monument or group of monuments shall be irrelevant in the determination of the fee that the cemetery owner may charge, except where the cemetery owner can establish that the multiplicity of pieces has resulted in the incurring by the cemetery owner of greater actual costs.

Cite as Ga. Comp. R. & Regs. R. 590-3-5-.02
Authority: O.C.G.A. Secs. 10-14-14, 10-14-17.
History. Original Rule entitled "Installation of Monuments" adopted. F. July 26, 2000; eff. August 15, 2000.
Amended: Rule repealed and a new Rule entitled "Installation of Merchandise" adopted. F. Jan. 17, 2002; eff. Feb. 6, 2002.
Repealed: New Rule of same title adopted. F. May 19, 2005; eff. June 8, 2005.

Subject 590-3-6. MAUSOLEUM PRECONSTRUCTION.

Rule 590-3-6-.01. Mausoleum Preconstruction Trust Fund.

When computing the amount to be deposited to the preconstruction trust fund, the initial cost of the land upon which the mausoleum will be built shall not be included in the total project price.

Cite as Ga. Comp. R. & Regs. R. 590-3-6-.01
Authority: O.C.G.A. Secs. 10-14-14, 10-14-29.
History. Original Rule entitled "Mausoleum Preconstruction Trust Fund" adopted. F. May 19, 2005; eff. June 8, 2005.

Subject 590-3-7. ADMINISTRATIVE HEARINGS.

Rule 590-3-7-.01. Applicability and Scope of Rules.

(1) The Rules of this Chapter 590-3-6 shall govern all hearings in "contested cases," as that term is found in Rule 590-3-1-.05, which, if requested, will be conducted before the Secretary of State, the Division Director, a referee appointed by the Secretary of State, or an Administrative Law Judge designated by the Office of State Administrative Hearings. Hearings held by an Administrative Law Judge shall be subject to the policies, rules, and procedures of the Office of State Administrative Hearings. For the purposes of these Rules "the Hearing Officer" shall refer to the Secretary of State or the Division Director, and unless the context requires otherwise, to a referee or an Administrative Law Judge.

(2) The Hearing Officer shall afford a liberal construction of these Rules where respondents in a case are not represented by counsel. Moreover, at the discretion of the Hearing Officer, the procedural requirements of these Rules may be relaxed in appropriate cases where such relaxation will facilitate the resolution of the matter without prejudice to the parties and will not be inconsistent with the requirements of the Georgia Administrative Procedure Act (APA) or other applicable statute.

(3) Procedural questions arising at any stage of the proceeding that are not addressed in the APA, any other applicable law, or these Rules shall be resolved at the discretion of the Hearing Officer, as justice requires. The Hearing Officer may consult and utilize the Civil Practice Act, Code Section Title 9, Chapter 611, and the Uniform Rules for the Superior Courts in the exercise of his or her discretion.

(4) In the event any requirement of these Rules conflicts with, or is supplemented by, an applicable state or federal statute or a federal rule governing hearings, the requirement of the conflicting or supplementing state or federal statute or the federal rule shall be applied by the Hearing Officer either on the Hearing Officer's own initiative or on the written notice or motion of any party.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.01
Authority: O.C.G.A. Sec. 10-14-23.

History. Original Rule entitled "Applicability and Scope of Rules" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.02. Filing and Submission of Documents.

(1) All submissions authorized or required to be filed with the Hearing Officer under the Act and these Rules shall be filed on 8½ by 11 inch paper with the Hearing Officer's Clerk ("Clerk"). Submissions shall be deemed filed on the date on which they are received by the Clerk, or the official postmark date such document was mailed, properly addressed to the Clerk with postage prepaid, whichever date comes first. Submissions may also be filed by facsimile machine or other approved electronic means designated by the Hearing Officer.

(2) The office hours of the Clerk shall be 8:00 a.m. to 5:00 p.m., Monday through Friday, except State legal holidays.

(3) All submissions shall be signed by the person making the submission, or by said person's attorney or other authorized agent or representative, and shall state the name, address, telephone number and the representative capacity of the person making the submission. The signature of an attorney or party shall constitute a certification that the signer has read the submission and that it is not interposed for delay or any improper purpose.

(4) All legal authority referred to, or in any way relied upon, in any submission that is not already a part of the record shall be included in full and may not be incorporated by reference. This requirement does not apply to published decisions of the Georgia appellate courts, the Official Code of Georgia Annotated, Georgia Laws, Rules and Regulations published by the Secretary of State of Georgia, or any federal statutes, regulations, or published decisions.

(5) Failure to comply with this Rule, or any other requirement of the Act and these Rules relating to the form or content of submissions to be filed, may result in the exclusion from the record, and the consideration by the Hearing Officer, of the non-complying submission. If, on motion by any party or on the Hearing Officer's own motion, the Hearing Officer determines that a submission fails to meet any requirement of the Act and these Rules, the Hearing Officer may direct the Clerk to return the submission by mail together with a reference to the applicable Rule(s). A party whose submission has been returned shall have ten (10) days from the date the submission is mailed back by the Clerk within which to conform the submission to the applicable Rule(s) and refile the submission.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.02
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Filing and Submission of Documents" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.03. Computation of Time.

(1) Computation of any period of time referred to in these Rules shall begin with the first day following the day on which the act that initiates such period of time occurs. When the last day of the period so computed is a day on which the office of the Hearing Officer's Clerk is closed, the period shall run until the end of the following business day.

(2) Whenever a party has the right, or is required, to do some act or take some action within a prescribed period after the service of notice or other paper, other than process, upon the party by another party within a period prescribed by these Rules and not otherwise specified by law, three days shall be added to that prescribed period if the notice or paper is served by mail.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.03
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Computation of Time" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.04. Changes of Time.

For good cause shown, the Hearing Officer may change, either on the Hearing Officer's own motion or on the motion of any party, any time limit prescribed or allowed by these Rules that is not otherwise specified by law. The Hearing Officer shall notify all parties of any determination to change any time limit.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.04
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Changes of Time" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.05. Burden of Proof; Admissibility of Copies of Records.

(1) The party representing the Secretary of State, and his or her staff, shall bear the burden of proof in all matters except that:

(a) In any case involving the imposition of civil penalties, an administrative enforcement order, or the revocation, suspension, amendment, or non-renewal of a registration, the holder of the registration or the person from whom civil penalties are sought, or against whom an order is issued, shall bear the burden as to any affirmative defenses he, she, or it raises;

(b) Any party challenging the issuance, revocation, suspension, amendment, or non-renewal of a registration who is not the registrant shall bear the burden;

(c) Any applicant for a registration that has been denied shall bear the burden. Any registrant that appeals the conditions, requirements, or restrictions placed on a registration shall bear the burden; and

(d) In any case involving the imposition of civil penalties, an administrative enforcement order, or the revocation, suspension, amendment, or non-renewal of a registration, the registrant or the person from whom civil penalties are sought, or against whom an order is issued, shall bear the burden of proving any exemption or exception from a definition.

(2) The Hearing Officer may, on his or her own motion or on motion of any party and by notice to the parties at least three (3) days prior to the hearing where practicable, but in any event before the start of the hearing, determine that the law or justice requires a different placement of the burden of proof.

(3) Copies of any documents filed in the Secretary of State's office and of any records kept by the Secretary of State, whether such copies are photostatic or electronic imaging, or otherwise, certified by the Secretary of State, shall be admissible with the same force and effect as the original of such documents or records would have if they were produced.

(4) A certificate signed and sealed by the Secretary of State indicating compliance or noncompliance by a person with the Act shall constitute prima-facie evidence of such compliance or noncompliance with the Act, and shall be admissible.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.05
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Burden of Proof; Admissibility of Copies of Records" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.06. Amendments to Pleadings.

In the event any pleading is required by the Hearing Officer, any party may amend such a pleading without leave of the Hearing Officer until the tenth (10th) day prior to the date set for hearing on the matter, or until the entry of a prehearing order, whichever occurs first. Thereafter, a party may amend his, her, or its pleadings only by written consent of the adverse party or by leave of the Hearing Officer for good cause shown. If an amendment is made to any pleading to which a response or reply is required, a response or reply to such amendment shall be filed within seven (7) days after service of the amendment, unless otherwise ordered by the Hearing Officer.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.06
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Amendments to Pleadings" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.07. Notice of Hearing.

(1) As soon as practicable after the receipt of a request for a hearing, either by the Respondent or the Secretary of State's staff ("Staff"), and the filing of any responsive pleading(s), the Hearing Officer shall issue a notice of hearing, which shall include:

(a) the time, place, and nature of the hearing;

(b) the legal authority and jurisdiction pursuant to which the hearing was requested;

(c) the specific laws and rules involved;

(d) a short and plain statement of the matters asserted;

(e) the right of parties to subpoena witnesses and documentary evidence, to be represented by legal counsel, and to respond, and present evidence on, all issues involved; and

(f) the potential consequences of a failure by any Respondent to attend a hearing.

(2) If the Hearing Officer is unable to state the matters in detail on the basis of the pleadings filed, the notice may be limited to a statement of the issues involved. Thereafter, the Hearing Officer may require more detailed pleadings, and, upon the written application of a party, the Hearing Officer shall furnish, or shall require the appropriate party to furnish, a more detailed statement. The notice may incorporate by reference information set forth in the petition, the responsive pleading(s), a prehearing order, or any other material included in the record of the matter at issue.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.07
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Notice of Hearing" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.08. Ex parte Communications.

(1) Commencing with the filing of a request for a hearing, no person shall communicate ex parte with the Hearing Officer relating to the merits of the proceeding without the knowledge and consent of all other parties to the matter until the matter is no longer pending in any administrative or judicial forum; provided that:

(a) Where circumstances require, ex parte communications for scheduling, administrative, or procedural requirements or purposes, or emergencies that do not deal with substantive matters or issues on the merits of the case are authorized; if:

1. the Hearing Officer reasonably believes that no party will gain procedural or tactical advantage as a result of the ex parte communication, and

2. if appropriate under the circumstances, the Hearing Officer makes provision promptly to notify all other parties of the substance of the ex parte communication and allows all other parties an opportunity to respond; and

(b) Ex parte communications shall not include normal and customary contact between the Secretary of State and his or her staff not relating to the contested case.

(2) If the Hearing Officer receives a communication prohibited by this Rule, the Hearing Officer shall file with the Clerk any written communication received and a memorandum stating the substance of any oral communication received. The Clerk shall forthwith notify all parties of the receipt of such communication and its availability for inspection.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.08
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Ex Parte Communications" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.09. Service.

(1) A party filing any submission under this Rule shall simultaneously serve a copy of the submission upon each party of record. Service shall be made by mail or personal delivery. Service by mail shall be complete upon mailing by first class mail, with proper postage affixed, to a party's address of record.

(2) Every submission shall be accompanied either by an acknowledgment of service from the person served, or his, her, or its authorized agent for service, or by a certificate of service stating the date, place and manner of service and the name and address of the persons served.

(3) The Clerk shall maintain, and upon request furnish to parties of record in a matter, a list containing the name, service address, and telephone number of each other party or his, her, or its attorney or duly authorized representative.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.09
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Service" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.10. Consolidation and Severance.

(1) In proceedings involving common issues of law or fact, whenever it appears to the Hearing Officer that a joint hearing would serve to expedite or simplify consideration of those issues and that no party would be prejudiced thereby, the Hearing Officer may,

upon motion of any party or the Hearing Officer, consolidate such proceedings for hearing on any or all of the common issues in such proceedings.

(2) Whenever the Hearing Officer determines that it would be more conducive to an expeditious, full and fair hearing for any party or issue to be heard in separate proceedings, the Hearing Officer may, upon motion of any party or the Hearing Officer, sever the party or issue for such separate hearing.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.10
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Consolidation and Severance" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.11. Substitution of Parties; Intervention.

(1) The Hearing Officer may, upon motion, permit substitution of parties, as justice requires.

(2) Any person seeking to intervene shall file a motion stating the specific grounds upon which intervention is sought and attaching a pleading setting forth the claim or defense for which intervention is sought. The grant or denial of such a motion shall be governed by the APA. In order to avoid undue delay or prejudice to the adjudication of the rights of the original parties, the Hearing Officer may limit the factual or legal issues that may be raised by an intervenor.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.11
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Substitution of Parties; Intervention" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.12. Prehearing Conferences.

(1) The Hearing Officer may, either on the Hearing Officer's own initiative or at the request of any party, direct the parties, their attorneys, or their duly authorized representatives to appear at a specified time and place for one or more conferences before or during a hearing or to submit written proposals or correspondence for the purpose of considering any of the matters set forth in paragraph (2) of this Rule. At the discretion of the Hearing Officer, prehearing conferences may be conducted in whole or in part via telephonically.

(2) In conferences held, or in proposals submitted, pursuant to paragraph (1) of this Rule, the following matters may be considered:

(a) settlement of the matter;

(b) use of a schedule for the completion of prehearing procedures and the submission and disposition of all prehearing motions;

(c) simplification, clarification, amplification, or limitation of the issues;

(d) the identification of documents expected to be tendered by any party;

(e) admissions and stipulations of facts and of the genuineness and admissibility of documents;

(f) the identification of persons expected to be called as witnesses by any party and the substance of their anticipated testimony;

(g) the identification of expert witnesses expected to be called by any party to testify and the substance of the facts and opinions to which the expert witness is expected to testify and a summary of the grounds for each opinion;

(h) matters of which official notice by the Hearing Officer is sought;

(i) objections to the introduction into evidence at the hearing of any written testimony, documents, papers, exhibits or other submissions proposed by any party; and

(j) such other matters as may expedite the adjudication of the matter or that the Hearing Officer otherwise deems appropriate.

(3) Based upon prehearing conferences or proposals submitted pursuant to paragraph (1) of this Rule, the Hearing Officer may issue a prehearing order containing the issues not disposed of by admissions or agreements of the parties, those facts in dispute and not in dispute, the witnesses and documents the parties intend to tender, the matters for which the parties seek official notice, and such other matters as may expedite the adjudication of the matter. Issues, factual matters, witnesses and documents not included in the prehearing order shall not be considered, allowed to testify, or admitted into evidence over the objection of any party unless the prehearing order is amended by the Hearing Officer. Amendments of the prehearing order may be made until the completion of the hearing for good cause shown including excusable neglect and to add newly discovered evidence or witnesses or to add rebuttal evidence or witnesses when the need for such could not have been reasonably foreseen prior to the entry of the prehearing order. In determining whether to allow an amendment to the prehearing order the Hearing Officer may consider the prejudice imposed upon the parties by the allowance or disallowance of the proposed amendment.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.12
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Prehearing Conferences" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.13. Summary Determination.

(1) Any party may move, based on supporting affidavits or other probative evidence, for a summary determination in its favor upon any of the issues being adjudicated on the basis that there is no genuine issue of material fact for determination. There shall be included in such motion, or annexed thereto, a short and concise statement of each of the material facts as to which the moving party contends there is no genuine issue for determination. Such a motion must be filed and served on all parties no later than ten (10) days after the filing of the prehearing order or thirty (30) days before the date set for hearing, whichever is later; provided that, upon good cause shown, the motion may be filed at any time before the close of the hearing.

(2) Any party may file and serve a response to a motion for summary determination or a counter motion for summary determination within twenty (20) days after service of the motion for summary determination. The response shall include a short and concise statement of each of the material facts as to which it is contended there exists a genuine issue for determination.

(3) When a motion for summary determination is made and supported, as provided in this Rule, a party opposing the motion may not rest upon mere allegations or denials, but must show, by affidavit or other probative evidence, that there is a genuine issue of material fact to be determined in the hearing.

(4) Affidavits shall be made upon personal knowledge, shall set forth facts that would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto and served therewith. Where facts necessary for summary determination are a matter of expert opinion, such facts may be resolved on the basis of uncontroverted affidavits or testimony of an expert.

(5) The Hearing Officer may set the motion for oral argument and call for the submission of proposed conclusions of law, findings of fact, and briefs. If the period required to rule upon the motion will extend beyond the date set for the hearing, the Hearing Officer may, on the Hearing Officer's own initiative, continue the hearing until the Hearing Officer rules upon the motion.

(6) The Hearing Officer may determine that the matter may better be resolved via an evidentiary hearing and is inappropriate for resolution by summary determination. If the Hearing Officer decides to deny a summary determination motion, the Hearing Officer shall notify the parties in writing of that determination.

(7) If all factual issues are decided by summary determination, no hearing will be held, and the Hearing Officer shall prepare his or her decision. If summary determination is denied, or if partial summary determination is granted, the Hearing Officer shall issue a memorandum opinion and order, interlocutory in nature, and the hearing will proceed on the remaining issues and factual matters still in dispute.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.13
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.

History. Original Rule entitled "Summary Determination" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.14. Motions.

(1) An application to the Hearing Officer for an order requiring any party to take any action or for the entry of any interlocutory ruling shall be made by motion. Unless made during the hearing, motions shall be in writing, shall state specifically the grounds therefore and shall describe the action or order sought. A copy of any written motion shall be served upon all parties.

(2) Within ten (10) days after service of any written motion, any party to the proceedings may file a response to the motion. The time for response may be shortened or extended by the Hearing Officer for good cause shown. Any party desiring resolution of a motion prior to the expiration of the ten (10) day response period shall file a written request for expedited consideration with the motion.

(3) Unless otherwise provided by the Hearing Officer, the Act, or the Rules relating to a specific type of motion, all motions shall be filed at least ten (10) days prior to the date set for hearing unless the need or opportunity for the motion could not reasonably have been foreseen ten (10) days prior to said date in which case the motion shall be filed or presented as soon as possible after the need or opportunity for the motion becomes reasonably foreseeable.

(4) All motions and responses shall include, or be accompanied by, citations of supporting authorities, and, when a motion depends upon factual allegations, supporting affidavits or citations to evidentiary materials of record.

(5) The Hearing Officer may, either upon the Hearing Officer's own initiative or at the request of any party, determine whether the nature and complexity of the motion justifies a hearing on the motion and notify the parties accordingly. A request for a hearing on a motion must be made in writing and filed by the date the response to the motion is to be filed. The Hearing Officer shall give notice of a hearing on a motion at least five (5) days prior to the date set for the hearing. At the discretion of the Hearing Officer, such hearings may be conducted, in whole or in part, via telephonic conference. If a hearing on a motion is not requested or deemed justified, the Hearing Officer shall rule upon the motion forthwith.

(6) Multiple motions may be consolidated for hearing or heard at a prehearing conference. The Hearing Officer may request submission of briefs, oral argument, or both, either in support of, or in opposition to, any motion.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.14
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Motions" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.15. Withdrawal of Request for Hearing; Settlement.

(1) The party requesting the hearing may withdraw a request for hearing at any time, whereupon the Hearing Officer may enter an order dismissing the matter.

(2) The parties may, at any time, present to the Hearing Officer, a proposed settlement proposal. Upon receipt of such a proposal, the Hearing Officer may accept or reject such proposal.

(3) Nothing herein shall preclude the Secretary of State from resolving, in his or her sole discretion, any contested case by consent order or other appropriate action.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.15
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Withdrawal of Request for Hearing; Settlement" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.16. Evidence; Official Notice.

(1) Pursuant to the APA, the Hearing Officer shall apply the rules of evidence as applied in the trial of civil nonjury cases in the superior courts and may, when necessary to ascertain facts not reasonably susceptible of proof under such rules, consider evidence not otherwise admissible thereunder if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs (preponderance of the evidence). At the discretion of the Hearing Officer, such evidence that may be admitted includes the following:

(a) records, reports, statements, plats, maps, charts, surveys, studies, analyses, or data compilations, in any form, of public offices or agencies, setting forth (i) the activities of the office or agency, or (ii) matters observed pursuant to duty imposed by law as to which matters there was a duty to report, or (iii) factual findings resulting from an investigation or research not performed in conjunction with the matter being heard and carried out pursuant to authority granted by law, unless its probative value cannot be determined or it lacks trustworthiness due to the sources of information or other circumstances;

(b) reports, records, statements, plats, maps, charts, surveys, studies, analyses, or data compilations after testimony by an expert witness that the expert witness prepared such document and that it is correct to the best of the expert witness's knowledge, belief and expert opinion;

(c) to the extent called to the attention of an expert witness upon cross-examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or

other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by official notice;

(d) any medical, psychiatric, or psychological evaluations, or scientific or technical reports, records, statements, plats, maps, charts, surveys, studies, analyses, or data compilations of a type routinely submitted to, and relied upon by, the Secretary of State in the normal course of his or her business; and

(e) documentary evidence in the form of copies, if the original is not readily available, if its use would unduly disrupt the records of the possessor of the original, or by agreement of the parties. Upon request, parties shall have an opportunity to compare the copy with the original. Documentary evidence may also be received in the form of excerpts, charts, or summaries when, in the discretion of the Hearing Officer, the use of the entire document would unnecessarily add to the record's length. The entire document shall be made available for examination or copying, or both, by other parties at a reasonable time and place.

(2) Where practicable, a copy of each exhibit identified or tendered at the hearing shall be furnished to the Hearing Officer and the other parties when first presented at the hearing.

(3) The Hearing Officer shall give effect to statutory presumptions and the rules of privilege recognized by law.

(4) If scientific, technical, or other specialized knowledge may assist the Hearing Officer to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise. The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence. The expert may testify in terms of opinion or inference and give the reasons therefore without prior disclosure of the underlying facts or data, unless the Hearing Officer requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

(5) The Hearing Officer shall have the discretion to authorize or require the submission of direct testimony in written form. Unless otherwise ordered by the Hearing Officer, a party submitting such testimony in support of an issue on which he, she, or it has the burden of proof shall file and serve the testimony upon all parties not less than fifteen (15) days before the hearing. All other such testimony shall be filed and served upon all parties not less than five (5) days before the hearing. The admissibility of the evidence contained in written testimony shall be subject to the same rules as if the testimony were produced under oral examination. The witness presenting the statement shall swear to or affirm the statement at the hearing and shall be subject to full cross-examination during the course of the hearing.

(6) Whenever any oral testimony sought to be admitted is excluded by the Hearing Officer, the proponent of the testimony may make an offer of proof by means of a brief statement on the record describing the excluded testimony. Whenever any documentary or physical evidence or written testimony sought to be admitted is excluded, it shall remain a part of the record as an offer of proof.

(7) All objections shall include a statement of the legal basis for the objection and shall be made promptly, or they shall be deemed waived. Parties shall be presumed to have taken exception to an adverse ruling. No objection shall be deemed waived by further participation in the hearing.

(8) Official notice may, in the discretion of the Hearing Officer, be taken of judicially recognizable facts. Any documents officially noticed shall be admitted into the record of the hearing. All parties shall be notified either prior to or during the hearing of the material noticed, and any party shall, on a timely request, be afforded an opportunity to contest the matters of which official notice is taken.

(9) The weight to be given to any evidence shall be determined by the Hearing Officer based upon its reliability and probative value.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.16
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Evidence; Official Notice" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.17. Subpoenas and Notices to Produce.

(1) The Hearing Officer shall have the authority to issue subpoenas requiring the attendance and testimony of witnesses and the production of objects or documents at depositions or hearings provided by these Rules and the Act.

(2) Requests for subpoenas shall be in writing and filed at least five (5) days prior to the hearing or deposition at which the attendance of the witness or the production of documents is sought, shall be served upon all parties, and shall identify the witnesses whose testimony is sought or the documents or objects sought to be produced. Every subpoena shall be issued by the Hearing Officer under the seal of the agency for which the Hearing Officer working and shall state the title of the action. The party requesting the subpoenas shall be responsible for filling in the subpoenas in a manner consistent with the request for subpoenas and serving the same sufficiently in advance of the hearing to secure the attendance of the witness or the availability of the witness's testimony on deposition at the time of the hearing.

(3) Any party that is not represented by counsel may be relieved by the Hearing Officer of the requirements of paragraph (2) above other than the service requirements. At the discretion of the Hearing Officer, such a party may obtain subpoenas by orally providing the Clerk with the names of the persons desired to be subpoenaed and a description of the

testimony or documents or objects sought. If such a request for subpoenas is made orally and approved by the Hearing Officer, the Clerk shall reduce the request to writing and shall have a copy of the request served upon all other parties.

(4) A subpoena may be served at any place within this State and by any sheriff, by his deputy, or by any other person not less than 18 years of age. Proof of service may be shown by return or certificate endorsed on a copy of the subpoena. Subpoenas may also be served by registered or certified mail, and the return receipt shall constitute prima-facie proof of service. Service upon a party may be made by serving his, her, or its counsel of record. Fees and mileage shall be paid to the recipient of a subpoena in accordance with Code Section 24-10-24.

(5) Once issued, a subpoena may be quashed by the Hearing Officer if it appears that the subpoena is unreasonable or oppressive, or that the testimony, documents, or objects sought are irrelevant, immaterial, or cumulative and unnecessary to a party's preparation and presentation of his, her, or its position at the hearing, or that, for other good reasons, basic fairness dictates that the subpoena should not be enforced. The Hearing Officer may also condition denial of a motion to quash a subpoena upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the documents or objects.

(6) Once issued and served, unless otherwise conditioned or quashed, a subpoena shall remain in effect until the close of the hearing or until the witness is excused, whichever comes first.

(7) Where a party desires to compel production of documents or objects in the possession, custody, or control of another party, in lieu of serving a subpoena under this Rule, the party desiring the production may serve a notice to produce upon the other party. Service may be perfected in accordance with paragraph (4) above, but no fees or mileage shall be allowed therefore. Paragraph (5) above shall also apply to such notices. The notice shall be in writing, signed by the party seeking production of the evidence, or his, her, or its attorney, and shall be directed to the opposite party or his, her, or its attorney. A copy of any notice to produce shall be filed simultaneously with the Clerk.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.17
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Subpoenas and Notices to Produce" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.18. Depositions and Written Questions to Secure Testimony.

(1) Any time during the course of a proceeding, the Hearing Officer may, in the Hearing Officer's discretion, order that the testimony of a witness be taken by deposition or on written questions. Application to take a deposition in lieu of personal appearance at the hearing shall be made by motion filed with the Clerk and served upon all parties. Such

motion shall state the name and address of the witness, the time when, the place where, and the subject matter about which the witness would be deposed, the relevance of such testimony, and the specific reason why the witness cannot, or will not, appear to testify at the hearing.

(2) In the exercise of the Hearing Officer's discretion in deciding whether to order testimony by deposition, the Hearing Officer may consider, among other factors:

(a) whether requiring the appearance of a witness subject to subpoena would endanger the witness's health or work an undue hardship;

(b) whether a showing has been made that a non-resident potential witness, who is not subject to subpoena in this State and is willing to appear voluntarily to be deposed in the jurisdiction of the witness's residence, would be subject to being compelled to appear and be deposed under any law in the jurisdiction of the witness's residence (e.g., a Uniform Foreign Depositions Act); or

(c) whether ordering the taking of testimony by deposition will result in an undue burden on any other party, an undue delay in the proceeding, or any injury to other parties from the delay.

(3) If the Hearing Officer orders testimony by deposition, the Hearing Officer may specify whether the scope of examination upon deposition should be limited in any way.

(4) Procedures for oral depositions to secure testimony shall be as follows:

(a) Examination and cross-examination of a deponent shall proceed under the same rules of evidence applicable to hearings under the Act and these Rules. Each deponent shall be duly sworn by an officer authorized to administer oaths by the laws of the United States or the place where the examination is held, and the deponent's testimony shall be recorded and transcribed. Any objections made at the time of the deposition to the qualifications of the officer taking the deposition, to the manner of the taking of the deposition, to the evidence presented, to the conduct of any party, or any other objection to the proceedings shall be recorded and included in the transcript. Evidence objected to shall be taken subject to the objection.

(b) Any error or irregularity in the notice of taking testimony by deposition shall be deemed waived unless written objection thereto is filed with the Clerk and served upon all parties prior to the deposition. Any objection relating to the qualifications of the officer before whom the deposition is to be taken shall be deemed waived unless made before the deposition begins or as soon thereafter as the alleged lack of qualification becomes known or could be discovered in the exercise of reasonable diligence.

(c) Any objection to the competency of a witness or to the competency, relevancy, or materiality of testimony is not waived by failure to make such objection prior to or

during the deposition unless the ground of the objection is one that might have been obviated or removed if presented prior to or during the deposition. Any error or irregularity occurring during the taking of the deposition in administering the oath or affirmation, the manner of the taking of the deposition, the form of questions or the answers thereto, the conduct of any party, or any error of a kind that might be obviated, removed or cured if timely raised, shall be deemed waived unless reasonable objection thereto is made at the deposition.

(d) Any error or irregularity in the manner in which the testimony is transcribed or the deposition is prepared, certified, transmitted, filed or otherwise dealt with by the person taking the deposition shall be deemed waived unless a motion to strike all or a part of the said deposition is made with reasonable promptness after such error or irregularity is, or in the exercise of reasonable diligence should have been, ascertained.

(e) The deposition shall be transcribed, certified by the officer taking the same, and filed with the Clerk. Any party who contends that the transcript does not truly or fully disclose what transpired at the deposition shall file a notice with the Clerk specifying any alleged errors and omissions within ten (10) days of the filing of the deposition. If the parties are unable to agree concerning the alleged errors and omissions, the Hearing Officer shall set the matter down for hearing with notice to all parties and shall resolve the differences to make the record accurately conform to the truth.

(f) Documents and things produced for inspection during the examination of the witness shall, upon the request of a party, be marked for identification and annexed to, and returned with, the deposition, and may be inspected and copied by any party. Copies may be substituted for originals if each party is given an opportunity to compare the proffered copy with the original to verify its correctness.

(5) Application to take testimony by written questions shall be made and considered in the same manner as prescribed for depositions in paragraphs (1), (2) and (3) of this Rule. If the Hearing Officer orders the taking of testimony on written questions, each written question shall be answered separately and fully in writing under oath, unless objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers shall be signed by the person making them, and any objections shall be signed by the attorney making them.

(6) Subject to appropriate rulings on objections, a deposition or written questions and answers shall be received in evidence as if the testimony contained therein had been given by the witness before the Hearing Officer.

(7) Whenever used in this Rule, the word "witness" shall be construed, where appropriate, to include parties.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.18
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Depositions and Written Questions to Secure Testimony" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.19. Nature of Proceedings.

(1) In any hearing conducted under the Act and these Rules, the Hearing Officer shall make an independent determination on the basis of the competent evidence presented at the hearing.

(2) Unless otherwise provided by federal or state statute or rule, the standard of proof on all issues in a hearing shall be a preponderance of the evidence.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.19
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Nature of Proceedings" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.20. Hearing Procedure.

(1) The Hearing Officer shall conduct a fair and impartial hearing, take action to avoid unnecessary delay in the disposition of the proceedings, and maintain order. For these purposes, the Hearing Officer may:

(a) arrange for, and issue, notices of the date, time, and place of hearings and conferences;

(b) establish the methods and procedures to be used in the development of the evidence;

(c) hold conferences to settle, simplify, determine, or strike any of the issues in a hearing, or to consider other matters that may facilitate the expeditious disposition of the hearing;

(d) administer oaths and affirmations;

(e) regulate the course of the hearing and govern the conduct of the participants;

(f) examine witnesses called by the parties;

(g) rule on, admit, exclude, or limit evidence;

(h) establish the time for filing motions, testimony, and other written evidence, exhibits, briefs, proposed findings of fact and conclusions of law, and other submissions;

(i) rule on motions and other procedural matters before the Hearing Officer, including, but not limited to, motions to dismiss for lack of jurisdiction or motions for summary determination;

(j) order that the hearing be conducted in stages whenever the number of parties is large or the issues are numerous and complex;

(k) allow such cross-examination as may be required for a full and true disclosure of facts;

(l) order that any information so entitled under applicable state or federal rule or statute be treated as confidential or privileged information and be accorded the degree of confidentiality required thereby;

(m) reprimand, or exclude from the hearing, any person for any indecorous or improper conduct committed in the Hearing Officer's presence;

(n) subpoena and examine any witnesses or evidence the Hearing Officer believes necessary for a full and complete record; and

(o) take any action not inconsistent with the Act and these Rules or the APA for the maintenance of order at the hearing and for the expeditious, fair, and impartial conduct of the proceeding.

(2) When two or more parties have substantially similar interests and positions, the Hearing Officer may limit the number of attorneys or other party representatives who will be permitted to cross-examine and to argue motions and objections on behalf of those parties. Attorneys may, however, at the Hearing Officer's discretion, engage in cross-examination relevant to matters that, in the Hearing Officer's opinion, have not been adequately covered by previous cross-examination.

(3) Whenever any party raises issues under either the Georgia or United States Constitution, the sections of any laws or rules constitutionally challenged and any constitutional provisions such laws or rules are alleged to violate must be stated with specificity. In addition, an allegation of unconstitutionality must be supported by a statement either of the basis for the claim of unconstitutionality as a matter of law or of the facts under which the party alleges that the law or rule is unconstitutional as applied to the party. Although the Hearing Officer is not authorized to resolve constitutional challenges to statutes or rules, the Hearing Officer may, in the Hearing Officer's discretion, take evidence and make findings of fact relating to such challenges.

(4) Any hearing that is required, or permitted, hereunder may be conducted by utilizing remote telephonic communications if the record reflects that all parties have consented to the conduct of the hearing by use of such communications and that such procedure will not jeopardize the rights of any party to the hearing.

(5) In proceedings before the Hearing Officer, if any party or an agent or employee of a party disobeys or resists any lawful order or process; or neglects to produce, after having been ordered to do so, any pertinent book, paper, or document; or refuses to appear after having been subpoenaed; or, upon appearing, refuses to take the oath or affirmation as a witness; or after taking the oath or affirmation, refuses to testify; or disobeys any other order issued by the Hearing Officer, any party may apply to, and the Hearing Officer shall certify the facts to, the Superior Court of the county where the offense is committed for appropriate action, including a finding of contempt.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.20
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Hearing Procedure" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.21. Record of Hearings.

(1) All intermediate rulings, orders, and notices issued by the Hearing Officer, all pleadings and motions, all recordings or transcripts of oral hearings or arguments, all written direct and rebuttal testimony, any other data, studies, reports, documentation, information and other written material of any kind submitted in the proceedings, a statement of matters officially noticed, all proposed findings, conclusions, and briefs and a Final Order of the Hearing Officer shall be a part of the hearing record and shall be available to the public, except as provided in any applicable federal or state statute or rule according confidentiality or privileged treatment, in the office of the Clerk as soon as received in that office.

(2) Evidentiary hearings shall be either stenographically reported verbatim or tape recorded. Upon written request, a transcript of any oral proceeding, or part thereof, shall be furnished to any party at the requesting party's expense.

(3) All documentary and physical evidence shall be retained by the Clerk.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.21
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Record of Hearings" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.22. Proposed Findings of Fact, Conclusions of Law, and Briefs.

At the conclusion of the hearing, the Hearing Officer may require the parties to submit proposed findings, conclusions, and briefs in support thereof. If required, the Hearing Officer shall specify the date by which the findings, conclusions, and briefs in support shall be filed with the Clerk and served on all parties. Reply briefs may be allowed in the sole discretion of the Hearing Officer.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.22
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Proposed Finds of Fact, Conclusions of Law, and Briefs" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.23. Newly Discovered Evidence.

Prior to the entry of the Hearing Officer's final order, any party may move the Hearing Officer for an order allowing the introduction of additional, newly discovered evidence that was not discoverable in the exercise of reasonable diligence at the time of the hearing. If the Hearing Officer determines that such evidence is proper newly discovered evidence that may materially impact upon the decision to be rendered, the Hearing Officer shall hear and receive such evidence in the manner prescribed for the receipt of evidence by these Rules.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.23
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Newly Discovered Evidence" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.24. Closure of Hearing Record.

Except as provided in this Rule or unless otherwise ordered by the Hearing Officer, the record shall be closed at the conclusion of the evidentiary hearing. If the Hearing Officer requests the preparation of a transcript or requires or authorizes the filing of proposed findings of fact, conclusions of law, or post-hearing briefs, the record shall be deemed closed upon the receipt by the Clerk of the transcript or upon the expiration of the time allowed for the required or authorized filings, whichever date comes later.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.24
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Closure of Hearing Record" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.25. Final Order of the Hearing Officer.

The Hearing Officer shall review and evaluate all the evidence and any interlocutory rulings, and shall either rule orally from the bench, stating findings of fact, conclusions of law, and a decision or order in the record, or may issue and file written findings, conclusions, and a decision or order with the Clerk, who shall immediately serve copies upon all parties or their counsel of record. The Hearing Officer shall render his or her final order within the time provided by applicable state or federal statute or rule or, in any event, within thirty (30) days after the close of the hearing record unless the Hearing Officer determines that the complexity of the issues and the length of the record require an order extending such period, in which event the Hearing Officer shall render a decision or final order at the earliest date practicable.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.25
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.

History. Original Rule entitled "Final Order of the Hearing Officer" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.26. Motions for Reconsideration or Rehearing; Stay of Decision.

(1) A motion for reconsideration or rehearing of a decision or final order will be considered only if the motion is filed within ten (10) days of the entry of the decision or final order. However, the time for filing such a motion may be extended by the Hearing Officer for good cause.

(2) The filing of such a motion shall not operate as a stay of enforcement of the Hearing Officer's decision or final order. But, the Hearing Officer may grant a stay upon appropriate terms, for good cause shown, if the Hearing Officer finds that the public safety and welfare will not be harmed by the issuance of a stay.

(3) The Hearing Officer shall not grant a motion for rehearing until after the expiration of the period for a response by any other party.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.26
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Motions for Reconsideration or Rehearing; Stay of Decision" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.27. Default.

(1) If a party fails to participate in any stage of a proceeding, fails to file any pleading required by the Hearing Officer under the Act or these Rules or any other applicable law or agency rule, or fails to comply with an order or subpoena issued by the Hearing Officer, the Hearing Officer, either on the Hearing Officer's own motion or on the motion of any party, may enter an order resulting in default against the offending party. Any such order shall specify the grounds for the order.

(2) Any default order may provide for a default as to all issues, a default as to specific issues, or other limitations, including limitations on the presentation of evidence and on the defaulting party's continued participation in the proceeding. In determining whether to enter a default and in considering the appropriate penalty for a default, the Hearing Officer shall give due regard for the interests of justice, the nature of the failure of the party in default, and the need for the orderly and prompt conduct of the proceeding.

(3) Within ten (10) days of the entry of a default order, the party against whom it was issued may file a written motion requesting that the order be vacated or modified and stating the grounds for said motion. The Hearing Officer may allow a default to be opened where the failure of the party in default was the result of providential cause or excusable neglect or where the Hearing Officer, from all the facts, determines that a proper case has been made for the default to be opened on terms to be fixed by the Hearing Officer.

(4) After issuing a default order, the Hearing Officer shall conduct any further proceedings necessary to complete the proceeding without the participation of the party in default, or with such limited participation as determined appropriate under paragraph (2) of this Rule, and shall determine all issues in the proceeding, including those affecting the party in default.

(5) If a party fails to attend an evidentiary hearing after having been given written notice thereof, the Hearing Officer may proceed with the hearing in the absence of the party unless the absent party is the party who requested the hearing, in which case, the Hearing Officer may dismiss the action on the motion of any other party or on the Hearing Officer's own motion. Failure of a party to appear at the time set for hearing shall constitute a failure to attend unless excused by the Hearing Officer for good cause.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.27
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Default" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.28. Emergency and Expedited Proceedings.

Whenever any hearing is required by law to be held pursuant to an expedited time frame inconsistent with these Rules, or whenever the Hearing Officer, either on motion of any party or on the Hearing Officer's own motion, determines that an expedited time frame is necessary to protect the interests of the parties or the public safety or welfare, the Hearing Officer shall require expedited filing of pleadings and shall conduct the hearing in such manner as justice requires.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.28
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Emergency and Expedited Proceedings" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.29. Appearance by Attorneys; Signing of Pleadings.

(1) Except as authorized in paragraph (2) of this Rule, or where specifically authorized by an applicable federal or Georgia statute or rule, no person shall represent any party in a proceeding before the Hearing Officer unless the person is an active member in good standing of the State Bar of Georgia and has filed an entry of appearance in the case in the attorney's individual name. An entry of appearance shall not be required if a pleading, motion, or other paper has previously been filed on the case by the attorney of record pursuant to paragraph (3) of this Rule.

(2) Nonresident attorneys who are not active members of the State Bar of Georgia may be permitted to appear before the Hearing Officer in isolated cases upon motion to, and in the discretion of, the Hearing Officer. A motion to appear in a particular case shall state

that the movant is an active member in good standing of the bar of the jurisdiction in which the movant regularly practices and that the movant agrees to behave in accordance with the Georgia standards of professional conduct and the duties imposed upon attorneys by Code Section 15-19-4.

(3) Every pleading, motion, or other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. A party who is not represented by an attorney shall sign the party's pleadings and state the party's address. The signature of an attorney constitutes a certificate by the attorney that the attorney has read the pleading and that it is not interposed for any improper purpose, including, but not limited to, delay or harassment. If a pleading, motion, or other paper is signed in violation of this Rule, the Hearing Officer, upon motion of any party or upon the Hearing Officer's own motion, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, including, but not limited to, dismissal.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.29
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Appearance by Attorneys; Signing of Pleadings" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.30. Involuntary Dismissal.

After a party with the burden of proof has completed the presentation of his, her, or its evidence, any other party, without waiving his, her, or its right to offer evidence in the event the motion is not granted, may move for dismissal on the ground that the party that has presented his, her, or its evidence has failed to carry his, her, or its burden to demonstrate his, her, or its right to some or all of the determinations sought by that party. The Hearing Officer may then determine the facts and render a Decision against the party that has presented its evidence as to any or all issues or may decline to render a Decision until after the close of all the evidence.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.30
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Involuntary Dismissal" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.31. Request for Agency Records.

(1) In any matter that could result in the revocation, suspension, or limitation of a registration, requests by the registrant for exculpatory, favorable, or arguably favorable information relative to any pending issues concerning the registration shall be governed by Code Section 50-13-18.

(2) In a pending proceeding or any other administrative proceeding authorized by the Act, a party may not access public records pertaining to the subject of the proceeding pursuant

to the Act and these Rules without the prior approval of the Secretary of State, who shall consider such open record request in the same manner as any other request for information put forth by a party in such a proceeding.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.31
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Request for Agency Records" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.32. Discovery.

Discovery shall not be available in any proceeding before a Hearing Officer except to the extent specifically authorized by a statute or rule. Nothing in this Rule is intended to limit the provisions of Article 4 of Chapter 18 of Title 50.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.32
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Discovery" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.33. Continuances and Conflicts.

(1) All motions for continuances shall be granted only upon a showing of good cause and shall not be granted simply because the parties and/or their counsel agree thereto. Among other factors the Hearing Officer may consider in connection with a motion for continuance are the impact of the continuance upon any parties who do not consent to the motion, the Hearing Officer's calendar, the difficulty in rescheduling the hearing site, the need for an expeditious resolution of the matter(s) at issue, and the public safety and welfare. A notice of conflict filed pursuant to paragraph (2) below shall not be considered as a motion for a continuance unless the notice expressly requests a continuance.

(2) In the event an attorney has a conflict involving an appearance in another legal proceeding, the requirements of the Uniform Rules for the Superior Courts shall be followed.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.33
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Continuances and Conflicts" adopted. F. May 19, 2005; eff. June 8, 2005.

Rule 590-3-7-.34. Withdrawals and Leaves of Absence.

The withdrawal and leave of absence provisions of the Uniform Rules for the Superior Courts shall be followed.

Cite as Ga. Comp. R. & Regs. R. 590-3-7-.34
Authority: O.C.G.A. Secs. 10-14-14, 10-14-23.
History. Original Rule entitled "Withdrawals and Leaves of Absence" adopted. F. May 19, 2005; eff. June 8, 2005.

Chapter 590-4. COMMISSIONER OF SECURITIES.

Subject 590-4-1. GENERAL PROVISIONS.

Rule 590-4-1-.01. Definitions.

All definitions contained in Section 10-5-2 of the Official Code of Georgia Annotated ("Code" or "O.C.G.A.") are incorporated by reference herein. When used in the Act and in these Rules, the following terms shall have the following meanings:

(1) "Accredited Investor" shall have the same meaning as set forth in Rule 501 of Regulation D under the SEC's general rules and regulations adopted pursuant to the Securities Act of 1933, 17 C.F.R. § 230.501.

(2) "Act" or "The Act" means the Georgia Uniform Securities Act of 2008, as amended, as set forth in Chapter 5 of Title 10 of the Official Code of Georgia Annotated.

(3) "Affiliate of" or "Person affiliated with" means a person who directly, or indirectly through one (1) or more intermediaries, controls or is controlled by, or is under common control with, the person specified.

(4) "Aggregate Offering Price" means the sum of all cash, services, property, notes, cancellation of debt, and other consideration received by an issuer for issuance of its securities. Where securities are being offered for both cash and non-cash consideration, the aggregate offering price shall be based on the price at which the securities are offered for cash. If securities are not offered for cash, the aggregate offering price shall be based on the value of the consideration as established by bona fide sales of that consideration made within a reasonable time or, in the absence of sales, on the fair value as determined by an accepted standard.

(5) "APA" means the Georgia Administrative Procedure Act, as set forth in Chapter 13 of Title 50 of the Official Code of Georgia Annotated.

(6) "Applicant" means the issuer, broker-dealer, investment adviser, investment adviser representative, agent, or other person executing the application.

(7) "Assistant Commissioner" means the Assistant Commissioner of Securities of the State of Georgia.

(8) "Associated person" means any partner, officer, director, branch manager (or any person occupying a similar status or performing similar functions) of a broker-dealer or

investment adviser, any person directly or indirectly controlling, controlled by, or under common control with such broker-dealer or investment adviser, or any employee of such broker-dealer or investment adviser, except that any person associated with a broker-dealer or investment adviser whose functions are solely clerical or ministerial shall not be included in the meaning of such term.

(9) "Branch office" means any location where one (1) or more associated persons of a broker-dealer or investment adviser regularly conducts the business of effecting any transactions in any security, advising with respect to any security, or inducing or attempting to induce the purchase or sale of any security, or is held out as such, excluding the following:

(a) Any location that is established solely for customer service or administrative/clerical functions, or both, where no sales activities are conducted and that is not held out to the public as a branch office.

(b) Any location that is the associated person's primary residence, provided the following:

1. Only one (1) associated person, or multiple associated persons who reside at that location and are members of the same immediate family, conduct business at that location;

2. The location is not held out to the public as an office, and the associated person does not meet with customers at that location;

3. Neither customer funds nor securities are handled at that location;

4. The associated person is assigned to a designated branch office, and such designated branch office is reflected on all business cards, stationery, advertisements, and other communications to the public by such associated person;

5. The associated person's correspondence and communications with the public are subject to the firm's supervision in accordance with NASD Rule 3010 as found in the FINRA Manual;

6. Electronic communications (e.g., emails) are made through the broker-dealer's or investment adviser's electronic system;

7. All orders are entered through the designated branch office or an electronic system established by the broker-dealer that is reviewable at the branch office;

8. Written supervisory procedures pertaining to supervision of sales activities conducted at the residence are maintained by the broker-dealer or investment adviser; and

9. A list of residence locations is maintained by the broker-dealer or investment adviser.

(c) Any location, other than a primary residence, that is used for securities business for less than thirty (30) business days in any one (1) calendar year, provided that the broker-dealer or investment adviser complies with the provisions set forth in clauses (b)(1)-(9) above.

(d) Any office of convenience, where associated persons occasionally and exclusively by appointment meet with customers, that is not held out to the public as an office. Where such office of convenience is located on bank premises, signage necessary to comply with applicable federal and state laws, rules, and regulations and applicable rules and regulations of the New York Stock Exchange, other self-regulatory organizations, and securities and banking regulators may be displayed and shall not be deemed "holding out" for purposes of this Rule.

(e) Any location that is used primarily to engage in non-securities activities and from which the associated person or persons effects no more than twenty-five (25) securities transactions in any one (1) calendar year; provided that any advertisement or sales literature identifying such location also sets forth the address and telephone number of the location from which the associated person or persons conducting business at the non-branch locations are directly supervised.

(f) The floor of a registered national securities exchange where a broker-dealer conducts a direct access business with public customers.

(g) A temporary location established in response to the implementation of a business continuity plan.

Notwithstanding the exclusions in this Rule, any location that is responsible for supervising the activities of persons associated with the broker-dealer or investment adviser at one (1) or more non-branch locations of the broker-dealer or investment adviser is considered to be a branch office.

(10) "Business Day" shall mean any day other than Saturday, Sunday or other day on which the office of the Secretary of State is authorized or required by law, regulation or order to close. The term "business day" as used in this Rule shall not include any partial business day provided that the associated person spends at least four (4) hours on such business day at his or her designated branch office during the hours that such office is normally open for business.

(11) "The Commissioner" or "Commissioner" means the Commissioner of Securities of the State of Georgia. For the purpose of the Rules, the term Commissioner includes the Assistant Commissioner and any other individuals delegated to act on behalf of the Commissioner or Assistant Commissioner.

(12) "CRD" means the Central Registration Depository as maintained by FINRA.

(13) "Division" means the Securities Division of the office of the Secretary of State.

(14) "FINRA" means the Financial Industry Regulatory Authority, Inc.

(15) "IARD" means the Investment Adviser Registration Depository as maintained by FINRA.

(16) "Initiation of Proceedings" or "Order for Proceedings" shall mean any:

(a) Summary order issued under Code Sections 10-5-13(a), 10-5-25, or 10-5-41;

(b) Ex parte order issued under Code Section 10-5-73; or

(c) Notice of hearing issued at the instance of the Commissioner.

(17) "NASAA" means the North American Securities Administrators Association, Inc.

(18) "National Securities Association" means an association registered with the SEC under Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. § 78o-3).

(19) "National Securities Exchange" means an exchange registered with the SEC under Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. § 78f).

(20) "Net Liquid Capital" means net capital as defined in SEC Rule 15c3-1(c)(2) (17 C.F.R. § 240.15c3 - 1(c)(2)) under the Securities Exchange Act of 1934.

(21) "Offering" means any or all offers and sales of securities by an issuer that are integrated and considered as part of a single offering of securities by such issuer. Offers and sales that are made more than six (6) months before the start of a putative offering under Code Section 10-5-11(14) or are made more than six (6) months after completion of such putative offering will not be considered part of that offering, so long as during those six (6) month periods there are no offers or sales of securities by or for the issuer that are of the same or a similar class as those offered or sold under Code Section 10-5-11(14), other than those offers or sales of securities under an employee benefit plan as defined in SEC Rule 405 (17 C.F.R. 230.405) under the Securities Act of 1933. If the issuer offers or sells securities within either of the six (6) month periods, the determination as to whether separate sales of securities are part of the same offering depends on the particular facts and circumstances of the sales, including the following:

(a) Whether the sales are part of a single plan of financing,

(b) Whether the sales involve issuance of the same class of securities,

(c) Whether the sales have been made at or about the same time,

(d) Whether the same type of consideration is received, and

(e) Whether the sales are made for the same general purpose.

(22) "Office of Supervisory Jurisdiction" means any office of a broker-dealer at which any one (1) or more of the following functions takes place:

(a) Order execution or market making, or both.

(b) Structuring of public offerings or private placements.

(c) Maintaining custody of customers' funds or securities, or both.

(d) Final acceptance (approval) of new accounts on behalf of the broker-dealer.

(e) Review and endorsement of customer orders.

(f) Final approval of advertising or sales literature for use by persons associated with the broker-dealer, except for an office that solely conducts final approval of research reports.

(g) Responsibility for supervising the activities of persons associated with the broker-dealer at one (1) or more other branch offices of the broker-dealer.

(23) "Officer" means, without limitation, the chief executive officer, president, vice president, secretary, and treasurer of a corporation, managing member of a limited liability company, managing partners of a partnership, or the equivalent positions in another type of business organization.

(24) "Order" or "Consent Order" includes, but is not limited to, an administrative order issued under these Rules or a similar order issued by a court of competent jurisdiction, any federal, foreign, or state agency, or a self-regulatory organization that makes a finding that state or federal securities laws have been violated and sanctions administered.

(25) "Purchaser Representative" means any person who satisfies all of the following conditions or who the issuer reasonably believes satisfies all of the following conditions:

(a) Is not an affiliate, director, officer, or other employee of the issuer, or beneficial owner of ten percent (10%) or more of any class of the equity securities or ten percent (10%) or more of the equity interest in the issuer, except where the purchaser is a:

1. Relative of the purchaser representative by blood, marriage, or adoption and not more remote than a first cousin;

2. Trust or estate in which the purchaser representative and any person related to the purchaser as specified in item 1, collectively, have more than fifty percent (50%) of the beneficial interest (excluding contingent interest) or

of which the purchaser representative serves as trustee, executor, or in any similar capacity; or

3. Corporation or other organization of which the purchaser representative and any persons related to the purchaser as specified in item 1 or 2, collectively, are the beneficial owners of more than fifty percent (50%) of the equity securities (excluding directors' qualifying shares) or equity interests.

(b) Has the knowledge and experience in financial and business matters such that the person is capable of evaluating, either alone, together with other purchaser representatives of the purchaser, or together with the purchaser, the merits and risks of the prospective investment.

(c) Is acknowledged by the purchaser, in writing, during the course of the specific transaction, to be the purchaser's purchaser representative in connection with evaluating the merits and risks of the specific prospective investment.

(d) Discloses to the purchaser, in writing, prior to the acknowledgment specified in clause (c), any material relationship between himself or herself or his or her affiliates and the issuer or its affiliates that then exist, is mutually understood to be contemplated, or has existed at any time during the previous two (2) years, and any compensation received or to be received as a result of the relationship.

(26) "Rule" or "the Rules" means the rules as they appear in the "Official Compilation Rules and Regulations of the State of Georgia" as compiled and printed by the Secretary of State pursuant to the Georgia Administrative Procedure Act, Code Section 50-13-1*et seq.*

(27) "Sales and Advertising Literature" means any advertisement; pamphlet; circular; letter; article; communication published in any newspaper, magazine or periodical; script of any recording, radio or television announcement or broadcast; sales-kit; pitch-book; film clip; or other communication through facsimile or other electronic means used or proposed to be used in connection with any offering of securities.

(28) "SEC" means the United States Securities and Exchange Commission.

(29) "Secretary of State" means the Secretary of State of the State of Georgia.

(30) "Securities Act of 1933" means the Securities Act of 1933, 15 U.S.C. § 77 a *et seq.*, as amended.

(31) "Securities Exchange Act of 1934" means the Securities Exchange Act of 1934, 15 U.S.C. § 78 f*et seq.*, as amended.

(32) "Underwriter" means any person who has purchased from an issuer with a view to, or offers or sells for an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of such an undertaking; but such term shall not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers' commission.

(33) "Willfully" or "Willful" means intentionally committing the act that constitutes the violation. There is no requirement that the actor also be aware that he, she, or it is violating the Act or Rules.

Cite as Ga. Comp. R. & Regs. R. 590-4-1-.01
Authority: O.C.G.A. Secs. 10-5-2, 10-5-10, 10-5-70, 10-5-74.
History. Original Rule entitled "Registration in Home State" adopted. F. and eff. July 19, 1965.
Amended: ER. 590-4-1-0.4-.01 entitled "Untrue Statements Prohibited" adopted. F. and eff. April 1, 1974, the date of adoption.
Amended: Permanent Rule entitled "Delegation to Assistant Commissioner" adopted. F. July 5, 1974; eff. July 25, 1974.
Repealed: New Rule entitled "Definitions" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: ER. 590-4-1-0.31-.01 adopted. F. July 2, 1990; eff. July 1, 1990, the date of adoption.
Amended: Permanent Rule adopted. F. Aug. 8, 1990; eff. Aug. 28, 1990.
Amended: F. Dec. 13, 1990; eff. Jan. 2, 1991.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of the same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-1-.02. Delegation to Assistant Commissioner.

The Assistant Commissioner is empowered to sign all documents, make all decisions and perform all acts under the Act as is the Commissioner. This power is to be exercised by the Assistant Commissioner concurrently with the Commissioner, and all acts of the Assistant Commissioner are of the same force and effect as such acts would be if performed by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 590-4-1-.02
Authority: O.C.G.A. Sec. 10-5-10, 10-5-70(f).
History. Original Rule entitled "Advertisement" adopted. F. and eff. July 19, 1965.
Amended: ER. 590-4-1-0.4-.02 entitled "Delegation to Assistant Commissioner" adopted. F. and eff. April 1, 1974, the date of adoption.
Amended: Permanent Rule entitled "Administrative Declaratory Rulings" adopted. F. July 5, 1974; eff. July 25, 1974.
Repealed: New Rule entitled "Delegation to Assistant Commissioner" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Amended: F. Dec. 13, 1990; eff. Jan. 2, 1991.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of the same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-1-.03. Administrative Declaratory Rulings; No-Action Letters; Informal Interpretations; Fees.

(1) Declaratory Rulings.

(a) Availability. Any person whose legal rights will be adversely impacted or impaired by the application of any statutory provision or any rule or order of the Commissioner may petition the Commissioner and request a declaratory ruling thereon. The Commissioner will not render advisory opinions, resolve questions that have become moot or are abstract or hypothetical, or otherwise act hereunder except with respect to such actual controversies or other cases that the Commissioner deems to be in the public interest, which shall be consistent with Code section 50-13-11.

(b) Form of Petition. Each such petition shall be filed with the Commissioner in writing and shall state:

1. The name and mailing address of the petitioner;

2. The full text of the statute, rule, or order upon which a ruling is requested;

3. A statement of all pertinent and existing facts necessary to a determination of the applicability of the quoted statute, rule, or order;

4. The petitioner's contention, if any, as to the aforesaid applicability with citation of legal authorities, if any, that authorizes, supports, or requires a decision in accordance therewith; and

5. A statement setting forth in detail the petitioner's interest in the matter and why and how the petitioner is uncertain or insecure with respect to his, her, or its rights. The petition shall be executed by the petitioner, or on behalf of the petitioner by a person legally authorized to represent the petitioner.

(c) Proceedings on Petition. If the Commissioner determines that a decision can be rendered on the face of the petition without further proceedings, he or she shall render a summary decision thereon. Otherwise, all parties known by the Commissioner to have a legal interest in the matter shall be notified and given an opportunity to be heard in a manner determined by the Commissioner.

(d) Fees. Prior to granting any petition for declaratory ruling, a fee in the amount of $500.00 shall be paid to the Commissioner if the Commissioner determines that a decision can be rendered on the face of the petition without further proceedings. If a hearing on the petition is required, a reasonable charge will be assessed for the costs incurred.

(2) No-Action Letters.

(a) Availability. Any person may request in writing a statement from the Commissioner's staff that, on the basis of the facts stated in such written request, the staff would not recommend enforcement action. The Commissioner's staff will not respond to requests related to unnamed companies or persons or to hypothetical situations.

(b) Form of No-Action Request. Each such no-action request shall be filed with the Commissioner in writing and shall:

1. State the specific subsection of the particular statute, rule, or order to which the request pertains;

2. Provide the names of the company or companies or individual(s) and all other persons involved;

3. Limit the request to the particular situation involving the problem at hand and not attempt to include every possible type of situation that may arise in the future;

4. State concisely and to the point all of the facts necessary to reach a conclusion in the matter; and

5. Indicate why the requesting party thinks a problem exists, indicate the requesting party's opinion in the matter, and indicate the basis for the requesting party's opinion.

(c) Fees. A no-action request shall not be considered unless the request filed with the Commissioner is accompanied by a fee in the amount of $250.00.

(3) Informal Interpretations. The Commissioner, at his/her discretion, may issue informal interpretations, which shall be intended as general guidance and not to be relied on as definitive.

Cite as Ga. Comp. R. & Regs. R. 590-4-1-.03
Authority: O.C.G.A. Secs. 10-5-10, 10-5-70, 10-5-74, 50-13-11.
History. Original Rule entitled "General Dealers in Securities" adopted. F. and eff. July 19, 1965.
Amended: ER. 590-4-1-0.4-.03 repealing Rule adopted. F. and eff. April 1, 1974, the date of adoption.
Amended: New Rule entitled "Petition for Adoption of Rules" adopted. F. July 5, 1974; eff. July 25, 1974.
Repealed: New Rule entitled "Administrative Declaratory Rulings" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule entitled "Administrative Declaratory Rulings; No-Action Letters; Informal Interpretations" adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Repealed: New Rule entitled "Administrative Declaratory Rulings; No-Action Letters; Informal Interpretations; Fees" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of the same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-1-.04. Petition for Adoption of Rules.

(1) Form of Petition. Each petition for adoption of rules made pursuant to the Georgia Administrative Procedure Act shall be filed with the Commissioner in writing and shall state:

(a) The name, address, telephone number and email address of the petitioner;

(b) The full text of the rule requested to be amended or repealed or the full text of the rule desired to be promulgated;

(c) A statement of the reason the rule should be amended, repealed or promulgated, including a statement of all pertinent existing facts concerning the petitioner's interest in the matter; and

(d) Citations to legal authorities, if any, that authorize, support, or require the action requested by the petitioner. The petition shall be executed by the petitioner or on behalf of the petitioner by a person legally authorized to represent the petitioner.

(2) Proceeding on petition. Within thirty (30) days after the submission of a petition, the Commissioner shall either deny the petition in writing, stating his or her reasons for the denial, or initiate rule-making proceedings in accordance with Code Section 50-13-4.

Cite as Ga. Comp. R. & Regs. R. 590-4-1-.04
Authority: O.C.G.A. Secs. 10-5-10, 10-5-70, 50-13-9.
History. Original Rule entitled "Application for Salesmen" adopted. F. and eff. July 19, 1965.
Amended: ER. 590-4-1-0.1-.01 adopted. F. and eff. December 30, 1966, the date of adoption.
Amended: Permanent Rule adopted. F. Jan. 30, 1967; eff. Feb. 18, 1967.
Amended: F. Aug. 16, 1972; eff. Sept. 5, 1972.
Amended: ER. 590-4-1-0.4-.04 repealing Rule adopted. F. and eff. April 1, 1974, the date of adoption.
Amended: New Rule entitled "Contested Cases" adopted. F. July 5, 1974; eff. July 25, 1974.
Repealed: New Rule entitled "Petition for Adoption of Rules" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of the same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-1-.05. Filing Date.

An application, notice, or report under the Act shall not be considered filed until all required forms and fees are received by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 590-4-1-.05
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-74.
History. Original Rule entitled "Bonds" adopted as ER. 590-4-1-0.3-.05. F. and eff. June 22, 1970, the date of adoption.
Amended: Permanent Rule of same title adopted. F. July 29, 1970; eff. August 18, 1970.
Amended: ER. 590-4-1-0.4-.05 repealing Rule adopted. F. and eff. April 1, 1974, the date of adoption.
Repealed: Permanent Rule adopted. Rule repealed. F. July 5, 1974; eff. July 25, 1974.
Amended: New Rule entitled "Contested Cases" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Repealed: New Rule entitled "Filing Date" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-1-.06. Records.

(1) All applications, records, correspondence, reports, and other documents filed with the Commissioner pursuant to the various provisions of the Act may be maintained in original form or by means of microfilm, microfiche, micro-photographic reproduction, photographic reproduction, electronic imaging, word processing, computerization, or other acceptable reproductive methods.

(2) All books, records, correspondence, reports, or other documents produced pursuant to a subpoena, an order, or a notice to produce issued by the Commissioner may be destroyed by order of the Commissioner once the investigative file is closed if a demand for return is not made by the person producing such records at the time he, she, or it produces the records.

(3) Any photographic, electronic image, micro-photographic, or computer reproduction of any original writing or record filed with, or maintained by, the Commissioner, the CRD or IARD systems, or other filing depository designated by the Commissioner, shall be deemed to have been made in the regular course of business.

(4) Electronic Signatures.

(a) The Commissioner may direct his or her staff to affix his or her electronic signature to any document to which the Commissioner has the authority to affix his or her manual signature. Such electronic signature shall be of the same force and effect as the Commissioner's manual signature.

(b) The Assistant Commissioner may direct the Commissioner's staff to affix his or her electronic signature to any document to which the Assistant Commissioner has the authority to affix his or her manual signature. Such electronic signature shall be of the same force and effect as the Assistant Commissioner's manual signature.

(5) The Commissioner shall furnish a copy of a record that is a public record or a certification that the public record does not exist to a person that so requests. The fee for furnishing a copy of a record that is a public record shall be in an amount consistent with Code Section 50-18-71. The fee for certification of a public record or certification that a public record does not exist shall be $30.00.

Cite as Ga. Comp. R. & Regs. R. 590-4-1-.06
Authority: O.C.G.A. Secs. 10-5-10, 10-5-70, 10-5-74, 10-5-75, 50-18-72.
History. Original Rule entitled "Records" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: F. Jan. 16, 1984; eff. Feb. 5, 1984.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Repealed: New Rule of the same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-1-.07. Confidentiality.

(1) All investigations and investigative proceedings shall be private, unless the Commissioner determines that the protection of the public requires that all or part of an investigation or investigative proceeding be made public.

(2) Any securities agency or law enforcement agency receiving information or documents pursuant to Code Section 10-5-77 must make the representation required by that Code Section in the form of an access letter. The access letter shall be addressed to the Commissioner and signed by someone at the requesting agency in a position to guarantee the aforementioned representation. Access letters and the Commissioner's response shall be deemed part of an investigative file and shall be confidential.

(3) The Commissioner may disclose information or documents obtained in connection with an investigation under the Act to the extent provided in the Act and these Rules. The Commissioner may further disclose such information if disclosure is for the purpose of a civil, administrative, or criminal investigation or proceeding. Any securities agency or law enforcement agency receiving such information or documents must represent that, under the applicable law, protections exist to preserve the integrity, confidentiality, and security of the information.

(4) Notices, administrative orders and public notices and investor alerts issued by the Commissioner shall constitute public information under the Act and these Rules.

Cite as Ga. Comp. R. & Regs. R. 590-4-1-.07
Authority: O.C.G.A. Secs. 10-5-10, 10-5-11, 10-5-70, 10-5-71, 10-5-76, 10-5-77.
History. Original Rule entitled "Confidentiality of Investigations" adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: Authority changed. F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule entitled "Confidentiality" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of the same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-1-.08. Non-Payment of Statutory Fees or Penalties.

(1) No registration, renewal, filing or administrative penalty required pursuant to the Act or any Rule shall be considered officially received by the Commissioner unless accompanied by the required fee or payment.

(2) If a check submitted in payment of a fee is dishonored, the registration, renewal or filing shall be immediately suspended, revoked or denied by order of the Commissioner. Upon entry of the order, the Commissioner shall promptly notify the issuer, applicant, registrant, or filer that the order has been issued and the reasons therefore. The person against whom the order is entered shall have fifteen (15) days from the date of notice to

pay the required fee or funds. If such payment is not made, the Commissioner may initiate enforcement proceedings. If payment is received by the Commissioner, or a person designated by him within fifteen (15) days from notice of the order, the Commissioner shall issue an order reinstating the effectiveness of the registration, renewal or filing; provided, however, that no registration, renewal or filing shall become effective until the required fee is paid and all other deficiencies are cleared.

(3) Any persons subject to an order issued pursuant to this Rule shall have notice of opportunity for hearing.

(4) The Commissioner may vacate or modify an order issued pursuant to this Rule if he or she finds that the conditions that prompted its entry have changed or that it is otherwise in the public interest to do so.

(5) The provisions of this Rule shall apply to any administrative penalty or fine required to be paid to the Commissioner as a result of sanctions imposed pursuant to Code Section 10-5-73.

(6) Any offer to sell or sale of securities that occurred while a registration, renewal or filing was subject to an order prohibiting the offer or sale of such securities shall be subject to the sanctions provided for in the Act and the Rules promulgated thereunder.

(7) In the event that a civil penalty is imposed upon any person pursuant to Code Section 10-5-73, the Commissioner may, to collect such civil penalty, act under any or all of the following paragraphs:

(a) In addition to any other method provided by law for the collection of civil penalties imposed pursuant to Code Section 10-5-73, if any civil penalty imposed by the Commissioner pursuant to Code Section 10-5-73 is not paid within ten (10) days after notice and demand from the Commissioner, the Commissioner may notify the Attorney General for the purpose of initiating appropriate proceedings to collect such penalty.

(b) In aid of collection or execution, the Commissioner may do either, or both, of the following:

1. Examine any person, including the person liable, by taking depositions or propounding interrogatories as provided in the Georgia Civil Practice Act, Chapter 11 of Title 9 of the Official Code of Georgia; or

2. Compel the production of documents or other items as provided in the Georgia Civil Practice Act, Chapter 11 of Title 9 of the Official Code of Georgia.

Cite as Ga. Comp. R. & Regs. R. 590-4-1-.08
Authority: O.C.G.A. Secs. 10-5-3, 10-5-5, 10-5-6, 10-5-9, 10-5-10, 10-5-13, 10-5-70, 10-5-73.
History. Original Rule entitled "Non-Payment of Statutory Fees or Fines" adopted. F. Feb. 24, 1987; eff. Mar. 16,

1987.
Repealed: New Rule entitled "Non-Payment of Statutory Fees or Penalties" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of the same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-1-.09. Uniform Forms.

(1) The following "Uniform Forms", as amended from time to time, are prescribed for use under the Act and Rules in lieu of the requisite Georgia form, if any.

(a) U-1. Uniform Application to Register Securities.

(b) U-2. Uniform Consent to Service of Process.

(c) U-2A. Uniform Form of Corporate Resolution.

(d) U-4. Uniform Application for Securities Industry Registration or Transfer.

(e) U-5. Uniform Termination Notice for Securities Industry Registration.

(f) ADV. Uniform Application for Investment Adviser Registration.

(g) BD. Uniform Application for Broker-Dealer Registration.

(h) USR-1. Investment Company Report of Sales.

(i) U-7. Small Company Offerings Registration Form, may be used as a disclosure guide when making a small company offering of securities pursuant to an exemption under the Act or when making small public offerings pursuant to the Act.

(j) NF. Uniform Investment Company Notice Filing.

(k) Model Accredited Investor Exemption Uniform Notice of Transaction.

(l) BR. Uniform Branch Office Registration Form.

(m) ADV-W. Notice of Withdrawal from Registration as Investment Adviser.

(n) BDW. Uniform Request for Withdrawal from Registration as a Broker-Dealer.

(o) D. Notice of Sales of Securities pursuant to SEC Regulation D.

Cite as Ga. Comp. R. & Regs. R. 590-4-1-.09
Authority: O.C.G.A. Secs. 10-5-7, 10-5-10, 10-5-16, 10-5-70, 10-5-74.
History. Original Rule entitled "Proceedings Under O.C.G.A. Sec. 10-5-4 of the Act" adopted. F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule entitled "Proceedings Under O.C.G.A. Secs. 10-5-4 and 10-5-7 of the Act" adopted. F. Dec. 13,

1990; eff. Jan. 2, 1991.
Repealed: New Rule entitled "Proceedings Under O.C.G.A. Secs. 10-5-4 and 10-5-7" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Uniform Forms" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-1-.10. Enforcement Procedures.

(1) Formal Orders of Investigation. The Commissioner may, at any time, whether based upon a complaint, referral, tip or other information and belief, issue a formal order of investigation that shall commence such public or private investigation within or outside this State, as he or she deems necessary, to determine whether any person has violated or is about to violate the Act or any Rule, Regulation, or order created under the Act or to aid in the enforcement of the Act or in the prescribing of Rules and Regulations thereunder. However, a formal order of investigation is not necessary for the Commissioner to commence an investigation.

(2) Referrals. The Commissioner may, at any time, whether by complaint or otherwise, or based on information or belief, transmit a civil or criminal referral investigative report and evidence of violations of the Act to any federal or state regulator, prosecutor or other appropriate law enforcement agency for the purpose of instituting any necessary civil or criminal proceedings.

(3) Appointment of an auditor, examiner, or regulatory monitor. In addition to those administrative sanctions the Commissioner may impose pursuant to Code Section 10-5-73, the Commissioner may issue an order for the appointment of an individual qualified by education and experience as an auditor, examiner, or regulatory monitor and assess the costs incurred to the person or entity that is the subject of the audit, examination or regulatory monitoring.

(4) Report of Examination or Inspection. The Commissioner, within his or her sole discretion, may accept or reject such examination or inspection, in whole or in part. If the report is accepted, the Commissioner shall file said report in the public records of the Commissioner. The Commissioner may, within his or her sole discretion, accept or reject, in whole or in part, the recommendations of the independent examiner.

(5) Emergency Orders. Notwithstanding any other provision of the Act or the Rules, an emergency order under this Rule is effective on the date of issuance, provided that:

(a) The Commissioner deems that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in the emergency order, in which case the order may be effective immediately pending proceedings. The proceedings shall be promptly instituted;

(b) The order is issued pursuant to Sections 10-5-13, 10-5-25, 10-5-41, 10-5-73 or 10-5-74 of the Act; or

(c) The order is expressly required, by a judgment or a statute, to be made without the right to a hearing or continuance of any type.

Upon issuance of the order, the Commissioner shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement of any administrative sanction(s) that the Commissioner will seek, a statement of the reasons for the order, and notice that, upon the request by any respondent named in the emergency order, a hearing will be promptly scheduled. If a person subject to the order does not request a hearing, and the Commissioner orders no hearing within thirty (30) days after the date of service of the order, the order shall become final as to that person by operation of law. If a hearing is requested by any person subject to the emergency order, or is ordered by the Commissioner, after notice and opportunity for hearing has been served upon each person subject to the emergency order, the Commissioner may modify, vacate, or extend the emergency order any time prior to a final determination.

Cite as Ga. Comp. R. & Regs. R. 590-4-1-.10
Authority: O.C.G.A. Secs. 10-5-10, 10-5-13, 10-5-70, 10-5-71.
History. Original Rule entitled "Enforcement Procedures" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of the same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-1-.11. Appointment of Investigative Agent, Examiner or Regulatory Monitor.

(1) In the case of any investigation or examination conducted under Code Section 10-5-71, the Commissioner may appoint an investigative agent, examiner or regulatory monitor to conduct the investigation or examination who shall have the powers and authority granted by the Commissioner.

(2) An investigative agent, examiner or regulatory monitor must possess the necessary investigative, legal, accounting or financial skills and expertise to properly analyze the evidence, prepare and present a comprehensive report, and follow through until completion of the assigned task. The investigative agent, examiner or regulatory monitor must certify that he or she does not have, nor is there a perception that he or she may have, a professional conflict of interest in the matter to be investigated. The Commissioner, in his or her sole discretion, shall determine the qualifications of an investigative agent, examiner or regulatory monitor.

(3) Unless otherwise indicated in the order, supervision of the investigative agent is vested in the Commissioner or his or her designee.

(4) An investigative agent, examiner or regulatory monitor shall be appointed by order under the appropriate Code Section. The order shall generally identify the matter, the persons to be investigated, the qualifications of the individual appointed as investigative agent, procedures for securing subpoenas, and reporting requirements. The order shall also establish the rate of compensation and invoicing and billing procedures.

(5) An investigative agent, examiner or regulatory monitor shall serve for a period of up to twelve (12) months. The period of appointment may be shortened or extended by the Commissioner as circumstances require.

(6) In any case where investigations or examinations are conducted by an investigative agent, examiner or regulatory monitor, he or she shall submit to the Commissioner a written report, including the transcript of the testimony in evidence (if requested by the Commissioner), the findings and recommendations of the action to be taken by the Commissioner. The recommendation of the agent may be approved, modified, or disapproved by the Commissioner. The Commissioner may direct an investigative agent or examiner to conduct further investigation, take additional testimony or acquire further documentary evidence as may be necessary and appropriate. Failure to submit the written report may disqualify the appointed individual or firm from any future appointment as an investigative agent, examiner or regulatory monitor.

Cite as Ga. Comp. R. & Regs. R. 590-4-1-.11
Authority: O.C.G.A. Secs. 10-5-.10, 10-5-70, 10-5-71.
History. Original Rule entitled "Uniform Interpretation of Securities Laws, Cooperation with Other Agencies, Investor Education, Referrals to SEC Fair Fund" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Appointment of Investigative Agent, Examiner or Regulatory Monitor" adopted. RF. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-1-.12. Criminal History Access and Confidential Law Enforcement Information.

(1) The Commissioner's investigators who are certified as peace officers by the Georgia Peace Officers Standards and Training Council or other employees authorized by the Commissioner may request access to criminal history files maintained by any state or federal law enforcement agency.

(2) Criminal history information that the Commissioner's investigators obtain from state or federal law enforcement agencies shall be securely maintained by the Commissioner and his or her staff and shall be confidential.

(3) Any access to such criminal history information shall be made in accordance with applicable laws, conditions, and limits imposed by the providing enforcement agency.

(4) The Commissioner may determine, in his or her sole discretion, whether the identity of a confidential informer shall be disclosed. The Commissioner shall take into account the public interest and the safety and security of the confidential informer.

Cite as Ga. Comp. R. & Regs. R. 590-4-1-.12
Authority: O.C.G.A. Secs. 10-5-10, 10-5-11, 10-5-70, 10-5-71.
History. Original Rule entitled "Appointment of Investigative Agent, Examiner or Regulatory Monitor" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Criminal Access and Confidential Law Enforcement Information" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-1-.13. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-1-.13
Authority: O.C.G.A. Secs. 10-5-10, 10-5-11.
History. Original Rule entitled "Criminal Access and Confidential Law Enforcement Information" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011

Rule 590-4-1-.14. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-1-.14
Authority: O.C.G.A. Secs. 10-5-10, 10-5-11.
History. Original Rule entitled "Copies of Documents" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Subject 590-4-2. EXEMPTIONS.

Rule 590-4-2-.01. Federal Covered Security Notice Filing Requirement for Investment Companies.

(1) An issuer of a federal covered security under Section 18(b)(2) of the Securities Act of 1933 (i.e., an investment company that is registered, or that has filed a registration statement, under the Investment Company Act of 1940), that is not otherwise exempt under Sections 10-5-10 through 10-5-12 of the Act, is required to submit a notice filing as set forth in subsection (2) with respect to each security sold before the initial offer of the federal covered security in this state.

(2) Each required notice filing under this Rule shall include the following:

(a) All records that are part of the federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933, 15 U.S.C. Section 77 a, *et seq.*;

(b) A consent to service of process complying with Section 10-5-80 of the Act; and

(c) A non-refundable filing fee of $250.00.

(3) A notice filing under this Rule is effective for one (1) year commencing on the later of the notice filing or the effectiveness of the Offering filed with the Securities and Exchange Commission. On or before expiration, the issuer may renew a notice filing by filing a copy of those records filed by the issuer with the Securities and Exchange Commission and by paying a renewal fee of $100.00. A previously filed consent to service of process complying with Section 10-5-80 of the Act may be incorporated by reference in a renewal. A renewed notice filing becomes effective upon the expiration of the filing being renewed and shall be effective for one (1) year after effectiveness.

(4) This Rule shall apply to all Offerings in which any sale is made within, or to any person in, the State of Georgia on or after the thirtieth (30th) day following the date of adoption hereof.

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.01
Authority: O.C.G.A. Secs. 10-5-3, 10-5-4, 10-5-10, 10-5-21, 10-5-70, 10-5-74, 10-5-80.
History. Original Rule entitled "Warrants or Stock Options" adopted. F. and eff. July 19, 1965.
Amended: ER. 590-4-2-0.5-.01 entitled "Qualifications for Registration" adopted. F. and eff. April 1, 1974, the date of adoption.
Amended: Permanent Rule of same title adopted. F. July 5, 1974; eff. July 25, 1974.
Amended: F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: F. Jan. 16, 1984; eff. Feb. 5, 1984.
Repealed: New Rule of same title adopted. F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Federal Covered Security Notice Filing Requirement for Investment Companies" adopted. F. Nov. 18, 2011, Dec. 8, 2011.

Rule 590-4-2-.02. Federal Covered Security Notice Filing Requirement for Offerings Pursuant to Rule 506.

(1) An issuer of a federal covered security under Section 18(b)(4)(D) of the Securities Act of 1933, that is not otherwise exempt under Sections 10-5-10 through 10-5-12 of the Act, is required to submit a notice filing pursuant to subsection (2) hereof not later than fifteen (15) days after the first sale of the federal covered security in this State or the first Business Day following the fifteenth (15th) day after the first sale of the federal covered security in this State if the fifteenth (15th) day is not a Business Day.

(2) Each required notice filing under this Rule shall include the following:

(a) A copy of the most recently filed Form D as filed with the SEC; and

(b) Payment of a non-refundable fee of $250.00.

(3) The notice filing and fees required by this Rule may be made electronically as permitted by the Commissioner.

(4) This Rule shall apply to all Offerings in which any sale is made within, or to any person in, the State of Georgia on or after the thirtieth (30th) day following the date of adoption hereof.

(5) Nothing in this exemption is intended to or should be construed as in any way relieving issuers or persons acting on behalf of issuers from providing disclosure to prospective investors adequate to satisfy the antifraud provisions of Section 10-5-50 of the Act in view of the objective of this section, and the purposes and policies underlying the Act.

(6) Nothing in this section is intended to relieve broker-dealers or agents from due diligence, suitability, or "know your customer" standards or any other requirements of law otherwise applicable to these persons.

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.02
Authority: O.C.G.A. Secs. 10-5-10, 10-5-21, 10-5-50, 10-5-74, 10-5-80.
History. Original Rule entitled "Sales Commissions" adopted. F. and eff. July 19, 1965.
Amended: ER. 590-4-2-0.5-.02 entitled "Records" adopted. F. and eff. April 1, 1974, the date of adoption.
Amended: Permanent Rule of same title adopted. F. July 5, 1974; eff. July 25, 1974.
Repealed: New Rule entitled "Use of Uniform Application Forms" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule entitled "Uniformity" adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Repealed: New Rule entitled "Central Registration Depository" adopted. F. Jan. 16, 1984; eff. Feb. 5, 1984.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Federal Covered Security Notice Filing Requirement for Offering Pursuant to Rule 506" adopted. F. Nov. 18, 2011, Dec. 8, 2011.

Rule 590-4-2-.03. Georgia Uniform Limited Offering Exemption.

(1) Pursuant to the authority delegated to the Commissioner by Section 10-5-12 of the Act, any offer or sale of securities offered or sold in compliance with SEC Rule 505 adopted pursuant to the Securities Act of 1933, including those exempt by application of Rule 508 under the Securities Act of 1933, that is made in accordance with the conditions and limitations set forth below, is determined to be exempt from the registration provisions of Section 10-5-20 of the Act if:

(a) No commission, fee, or other remuneration is paid or given, directly or indirectly, to any broker-dealer for soliciting any prospective purchaser in this State unless the broker-dealer is appropriately registered under the Act. It is a defense to a violation of this subsection if the issuer sustains the burden of proof that the issuer did not know and in the exercise of reasonable care could not have known that the

person who received a commission, fee, or other remuneration was not properly registered;

(b) The issuer shall file with the Commissioner no later than fifteen (15) Business Days after the receipt of consideration or the delivery of a subscription agreement by an investor in this State that is the result of any offer made in reliance upon this exemption:

1. A copy of the most recently filed Form D as filed with the SEC, and

2. A non-refundable filing fee of $250.00.

(c) In all sales to investors, other than Accredited Investors, in this State, one (1) of the following conditions must be satisfied or the issuer and any person acting on its behalf shall have reasonable grounds to believe, and after making reasonable inquiry shall believe, that one (1) of the following conditions is satisfied:

1. The investment is suitable for the purchaser upon the basis of facts, if any, disclosed by the purchaser as to the purchaser's other security holdings, financial situation, and needs. For purposes of this condition only, it may be presumed that, if the investment does not exceed ten percent (10%) of the investor's net worth, it is suitable; or

2. The purchaser, either alone or with his or her Purchaser Representative or representatives, has the knowledge and experience in financial and business matters that he or she is capable of evaluating the merits and risks of the prospective investment.

(d) A failure to comply with a term, condition, or requirement of subdivisions (a), (b) or (c) will not result in loss of the exemption from the requirements of Section 10-5-20 of the Act for any offer or sale to a particular individual or entity if the person relying on the exemption shows:

1. The failure to comply did not pertain to a term, condition, or requirement directly intended to protect that particular individual or entity;

2. The failure to comply was insignificant with respect to the Offering as a whole; and

3. A good faith and reasonable attempt was made to comply with all applicable terms, conditions, and requirements of subdivisions (a), (b), and (c).

(e) The Commissioner, at his or her discretion, may waive one or more conditions of this Rule if the Commissioner determines, upon a showing of good cause, that it is not necessary under the circumstances.

(2) In the event the Offering is to continue pursuant to this exemption more than twelve (12) months after the date of the initial filing made pursuant to this exemption, then it shall be necessary for the issuer to file a renewal notice on or prior to the one year anniversary of the original filing date, containing a completed SEC Form D and a non-refundable filing fee in the amount of $100.00.

(3) The filings and fees required by this Rule may be made electronically if permitted by the Commissioner.

(4) Nothing in this exemption is intended to or should be construed as in any way relieving issuers or persons acting on behalf of issuers from providing disclosure to prospective investors adequate to satisfy the antifraud provisions of Section 10-5-50 of the Act in view of the objective of this section, and purposes and policies underlying the Act.

(5) This exemption shall not apply to those transactions offered and sold in reliance upon 506 of SEC Regulation D or any other Offering or security otherwise exempt under Sections 10-5-10 through 10-5-12 of the Act or Rule or Order of the Commissioner.

(6) The exemption authorized by this section shall be known and may be cited as the "Georgia Uniform Limited Offering Exemption" or "Georgia ULOE".

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.03
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10, 10-5-12, 10-5-70.
History. Original Rule entitled "Financial Statements" adopted. F. and eff. July 19, 1965.
Amended: ER. 590-4-2-0.5-.03 entitled "Reports" adopted. F. and eff. April 1, 1974, the date of adoption.
Amended: Permanent Rule of same title adopted. F. July 5, 1974; eff. July 25, 1974.
Repealed: New Rule entitled "Records" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Amended: F. Apr. 13, 1983; eff. May 3, 1983.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Georgia Uniform Limited Offering Exemption" adopted. F. Nov. 18, 2011, Dec. 8, 2011.
Amended: F. Mar. 9, 2012; eff. Mar. 29, 2012.

Rule 590-4-2-.04. Non-issuer Transactions Manual Exemption.

For purposes of exempt non-issuer transactions by or through a broker-dealer registered or exempt from registration under this Chapter, the following securities manuals are designated as nationally recognized securities manuals:

(a) Standard & Poor's Standard Corporations Descriptions,

(b) Best's Insurance Reports Life-Health;

(c) Mergent's Bank and Finance Manual and News Reports;

(d) Mergent's Industrial Manual and News Reports;

(e) Mergent's Public Utility Manual and News Reports;

(f) Mergent's Transportation Manual and News Reports;

(g) Mergent's Municipal and Government Manual and News Reports;

(h) Mergent's International Manual and News Reports;

(i) Fitch's Individual Stock Bulletin;

(j) The OTCQX Market;

(k) The OTCQB Market; and

(l) Any other securities manual as determined in the discretion of the Commissioner to be a nationally recognized securities manual, which shall require the continuous disclosure by any issuer relying on such manual for the purpose of the registration exemption.

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.04
Authority: O.C.G.A. §§ 10-5-11, 10-5-70.
History. Original Rule entitled "Advertising by Corporations for Publicity Purposes" adopted. F. and eff. July 19, 1965.
Amended: ER. 590-4-2-0.5-.04 repealing Rule adopted. F. and eff. Apr. 1, 1974, the date of adoption.
Amended: New Rule entitled "Dealer's and Salesmen's Licenses" adopted. F. July 5, 1974; eff. July 25, 1974.
Repealed: New Rule entitled "Reports" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Non-issuer Transactions Manual Exemption" adopted. F. Nov. 18, 2011, Dec. 8, 2011.
Amended: F. Dec. 14, 2016; eff. Jan. 3, 2017.

Rule 590-4-2-.05. Nonpublic Offering Exemption.

(1) For purposes of calculating the number of purchasers under Section 10-5-11(14) of the Act, the following rules shall apply:

(a) The following purchasers shall be excluded:

1. Any person related to the purchaser by blood or marriage having the same principal residence as the purchaser.

2. Any trust or estate in which a purchaser and any of the persons related to the purchaser (as specified in clause (1) or (3)) collectively have more than fifty percent (50%) of the beneficial interest (excluding contingent interests).

3. Any corporation or other organization of which a purchaser and any of the persons related to the purchaser (as specified in clause (1) or (2)) collectively are beneficial owners of more than fifty percent (50%) of the equity securities (excluding directors' qualifying shares) or equity interest.

(b) A corporation, partnership, or other entity shall be counted as one (1) purchaser; however, if such entity is organized for the specific purpose of acquiring the securities offered and such entity is not an Accredited Investor, then each beneficial owner of equity securities or equity interests in the entity shall count as separate purchasers for purposes of calculating the number of purchasers pursuant to Section 10-5-11(14) of the Act.

(2) The issuer must satisfy all necessary provisions of Section 10-5-11(14) of the Act for all purchasers whether or not they are included in calculating the number of purchasers. Clients of an investment adviser or customers of a broker-dealer shall be considered the purchasers under Section 10-5-11(14) of the Act regardless of the amount of discretion given to the investment adviser or broker-dealer to act on behalf of the client or customer.

(3) In all Offerings and sales under Section 10-5-11(14) of the Act, the issuer shall make itself available to each purchaser and Purchaser Representative, if any, at a reasonable time prior to the purchase of securities, the opportunity to:

(a) Ask questions and receive answers concerning the terms and conditions of the Offering;

(b) Inspect and copy all material documents relating to the Offering; and

(c) Inspect and copy additional information that the issuer possesses or can acquire without unreasonable effort or expense that is necessary to verify the accuracy of information furnished in connection with the Offering.

(4) Offers and sales that are exempt under Section 10-5-11(14) of the Act may not be combined with offers and sales exempt under any other section or provision of the Act, provided, however, that this limitation shall not require an issuer to make an election and an issuer failing to satisfy Section 10-5-11(14) of the Act may claim the availability of any other applicable exemption. In any proceeding involving the availability of an exemption under Section 10-5-11(14) of the Act, the burden of proving compliance with the conditions of the exemption is upon the person claiming the exemption.

(5) The exemption provided by Section 10-5-11(14) of the Act is only an exemption for the initial Offering from the registration requirements of Section 10-5-20 of the Act. It is not an exemption for subsequent offers or resales of the securities from the initial Offering.

(6) Section 10-5-11(14) of the Act does not provide an exemption from any section of the Act other than Section 10-5-20 of the Act, including the antifraud and civil liability provisions.

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.05
Authority: O.C.G.A. Secs. 10-5-2, 10-5-3, 10-5-10, 10-5-11, 10-5-70.
History. Original Rule entitled "Dilution of Stock" adopted. F. and eff. July 19, 1965.
Amended: ER. 590-4-2-0.5-.05 repealing Rule adopted. F. and eff. April 1, 1974, the date of adoption.
Amended: New Rule entitled "Dual Registration" adopted. F. July 5, 1974; eff. July 25, 1974.
Repealed: New Rule entitled "Dealer's and Salesmen's Licenses" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule entitled "Dealer's and Salesman's Licenses" adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Repealed: New Rule entitled "Multiple Registration" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Nonpublic Offering Exemption" adopted. F. Nov. 18, 2011, Dec. 8, 2011.

Rule 590-4-2-.06. Disqualification from Use of Exemption.

(1) No exemption under Section 10-5-11(14) of the Act, the Georgia ULOE or the Invest Georgia Exemption shall be available for any Offering if the issuer; any predecessor of the issuer; any affiliate of the issuer; any member of the board of directors, officer, general partner, limited liability company manager or managing member of the issuer; or any person that has been or will be paid (directly or indirectly) remuneration for solicitation of purchasers in connection with such sale of securities pursuant to the Offering:

(a) Has filed a registration statement which is the subject of any pending proceeding or examination under Section 8 of the Securities Act of 1933, or has been the subject of any refusal order or stop order thereunder within five (5) years prior to the Offering;

(b) Is subject to any pending proceeding under SEC Rule 258 promulgated under the Securities Act of 1933, or any similar section adopted under Section 3(b) of the Securities Act of 1933, or to an order entered thereunder within five (5) years prior to the Offering;

(c) Has been convicted within five (5) years prior to the Offering of any felony or misdemeanor in connection with the purchase or sale of any security or involving the making of any false filing related to the offer or sale of any security;

(d) Is subject to any order, judgment, or decree of any court of competent jurisdiction or regulatory authority (including non-U.S. regulatory authorities) temporarily or preliminarily restraining or enjoining, or is subject to any order, judgment or decree of any court of competent jurisdiction or regulatory authority entered within five (5) years prior to the Offering permanently restraining or enjoining, such person from engaging in or continuing any conduct or practice in connection

with the purchase or sale of any security or involving the making of any false filing related to the offer or sale of any security; or

(e) Is subject to a United States Postal Service false representation order entered under § 39 U.S.C. 3005 within five (5) years prior to the Offering, or is subject to a temporary restraining order or preliminary injunction entered under § 39 U.S.C. 3007 with respect to conduct alleged to have violated § 39 U.S.C. 3005.

(2) Paragraph (1) of this section shall not apply:

(a) Upon a showing of good cause and without prejudice to any other action by the Commissioner, if the Commissioner determines that it is not necessary under the circumstances that an exemption be denied; and

(b) If the issuer establishes that it did not know, and in the exercise of reasonable care could not have known, that a disqualification existed under paragraph (1) of this section. An issuer will not be able to establish that it has exercised reasonable care unless it has made factual inquiry into whether any disqualifications exist. The nature and scope of the requisite inquiry will vary based on the circumstances of the issuer and the other offering participants.

(3) This Rule shall apply to all Offerings in which any sale is made within, or to any person in, the State of Georgia on or after the thirtieth (30th) day following the date of adoption hereof.

(4) For purposes of paragraph (a) of this Section, events relating to any Affiliate Of the issuer that occurred before the affiliation arose will not be considered disqualifying if the affiliated entity is not:

(a) In control of the issuer; or

(b) Under common control with the issuer by a third party that was in control of the affiliated entity at the time of such events.

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.06
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10, 10-5-11, 10-5-13, 10-5-70.
History. Original Rule entitled "Consent to Serve" adopted. F. and eff. July 19, 1965.
Amended: ER. 590-4-2-0.5-.06 repealing Rule adopted. F. and eff. April 1, 1974, the date of adoption.
Amended: New Rule entitled "Exemption from Principal's Exam" adopted. F. July 5, 1974; eff. July 25, 1974.
Repealed: New Rule entitled "Dual Registration" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Amended: F. Sept. 27, 1990; eff. Oct. 17, 1990.
Repealed: New Rule entitled "Examinations" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Disqualification from Use of Exemption" adopted. F. Nov. 18, 2011, Dec. 8, 2011.

Rule 590-4-2-.07. Not-For-Profit Securities Registration.

(1) With respect to the offer or sale of a note, bond, debenture, or other evidence of indebtedness, such issuers relying upon the exemption from registration provided in Section 10-5-10(7) of the Act shall file a notice as set forth in subsections (2) below with the Secretary of State at least ten (10) full business days prior to the first offer of sale pursuant to such claim. Such exemption shall become effective ten (10) full business days after the filing of a complete notice if the Secretary of State has not disallowed the exemption.

(2) The notice required in this Rule shall specify, in writing, the material terms of the proposed offer or sale to include, although not limited to, the following:

(a) The identity of the issuer;

(b) The amount and type of securities to be sold pursuant to the exemption;

(c) A description of the use of the proceeds of the Offering;

(d) The person or persons by whom the offers and sales will be made;

(e) The offering statement, if any; and

(f) A consent to service of process complying with Section 10-5-80 of the Act.

(3) All proposed Sales and Advertising Literature to be used in connection with the proposed offer or sale of the securities shall be filed with the Secretary of State only upon request.

(4) The Statement of Policy regarding Church Bonds adopted by NASAA on April 14, 2002 (available at http://www.nasaa.org/wp-content/uploads/2011/07/40-Church_Bonds.pdf [File Link Not Available] [File Link Not Available]), and the Statement of Policy regarding Church Extension Fund Securities adopted by NASAA on April 17, 1994, and amended on April 18, 2004, (available at http://www.nasaa.org/wp-content/uploads/2011/07/39-Church_Extension_Fund_Securities.pdf) shall be applied, as applicable, to the proposed offer or sale of a security for which a notice must be filed pursuant to this Rule. Failure to comply with the provisions of an applicable Statement of Policy promulgated by NASAA shall serve as the grounds for disallowance of the exemption from registration provided by Section 10-5-10(7) of the Act.

(5) The Commissioner may also waive any term or condition set forth in this Rule.

(6) The Commissioner may by Order set forth certain requirements for the escrow of proceeds in any Offering under this Rule.

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.07
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10(7), 10-5-70.
History. Original Rule entitled "Pictures or Diagrams in the Prospectus" adopted. F. and eff. July 19, 1965.

Amended: ER. 590-4-2-0.2-.07 adopted. F. and eff. March 20, 1968, the date of adoption.
Amended: Permanent Rule adopted. F. Apr. 23, 1968; eff. May 12, 1968.
Amended: ER. 590-4-2-0.5-.07 repealing Rule adopted. F. and eff. April 1, 1974, the date of adoption.
Amended: New Rule entitled "Examinations" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: F. Jan. 16, 1984; eff. Feb. 5, 1984.
Repealed: New Rule of same title adopted. F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule entitled "Supervision of Salespersons, Limited Salespersons, and Employees" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Not-For-Profit Securities Registration" adopted. F. Nov. 18, 2011, Dec. 8, 2011.
Amended: F. Mar. 9, 2012; eff. Mar. 29, 2012.

Rule 590-4-2-.08. Invest Georgia Exemption.

(1) The offer or sale of a security by an issuer shall be exempt from the requirements of Article 3 and Section 10-5-53 of the Act, and each individual who represents an issuer in an offer or sale shall be exempt from the requirements of Section 10-5-30, if the offer or sale is conducted in accordance with each of the following requirements:

(a) The issuer of the security shall be a for-profit business entity registered with the Secretary of State.

(b) The transaction shall meet the requirements of the federal exemption for intrastate offerings in either:

1. Section 3(a)(11) of the Securities Act of 1933, 15 U.S.C. § 77 c(a)(11), and SEC Rule 147, 17 C.F.R. 230.147; or

2. Rule 147A, 17 C.F.R. 230.147(A).

(c) The sum of all cash and other consideration to be received for all sales of the security in reliance upon this exemption shall not exceed $5,000,000, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance upon this exemption.

(d) The issuer shall not accept more than $10,000 from any single purchaser unless the purchaser is an accredited investor as defined by rule 501 of SEC regulation D, 17 C.F.R. 230.501.

(e) All funds received from investors shall be deposited into a bank or depository institution authorized to do business in Georgia, and all the funds shall be used in accordance with representations made to investors.

(f) Before an offer is made in reliance on this exemption, the issuer shall file a notice with the Commissioner in writing or in electronic form. The notice shall specify that the issuer is conducting an offering in reliance upon this exemption and shall contain the names and addresses of the following persons:

1. The issuer;

2. All persons who will be involved in the offer or sale of securities on behalf of the issuer; and

3. The bank or other depository institution in which investor funds will be deposited.

(g) The issuer shall not be, either before or as a result of the offering, an investment company as defined in section 3 of the Investment Company Act of 1940, 15 U.S.C. § 80a-3, or subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. § 78 m and 78o(d).

(h) The issuer shall inform all purchasers that the securities have not been registered under the Act and that the securities are subject to the limitation on resales contained in either:

1. subsection (e) of SEC Rule 147, 17 C.F.R. 230.147(e), in the manner described in subsection (f) of SEC Rule 147, 17 C.F.R. 230.147(f); or

2. (ii) subsection (e) of SEC Rule 147A, 17 C.F.R. 230.147A(e), in the manner described in subsection (f) of SEC Rule 147A, 17 C.F.R. 230.147A(f).

(2) Offers and sales to controlling persons. This exemption shall not be used in conjunction with any other exemption under these rules or the Act, except for offers and sales to the following persons, who shall not count toward the limitation in paragraph (1)(c)

(a) An officer, director, partner, or trustee or an individual occupying similar status or performing similar functions; or

(b) A person owning 10 percent or more of the outstanding shares of any class or classes of securities

(3) Disqualifications. This exemption shall not be available if the issuer is subject to a disqualifying event specified in Rule 590-4-2-.06.

(4) The exemption authorized by this section shall be known and may be cited as the "Invest Georgia Exemption".

(5) "Individual," for the purpose of paragraph (1) of this Rule, means a natural person, or a corporation, trust, partnership, association, or any other legal entity authorized to do business under the laws of the state of Georgia, that does not:

(a) offer investment advice or recommendations;

(b) compensate employees, agents, or other persons for this solicitation of purchases, sales, or offers to purchase the securities exempted by this Rule; or

(c) take custody of investor funds or securities.

(6) If the information contained on the notice filed with the Commissioner becomes inaccurate for any reason, the issuer shall file an amendment in writing with the Commissioner within 30 (thirty) days. Said amendment shall be made on a form prescribed by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.08
Authority: O.C.G.A. §§ 10-5-3, 10-5-10, 10-5-11, 10-5-12, 10-5-30, 10-5-70.
History. Original Rule entitled "Supervision of Salesmen, Limited Salesmen, and Employees" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule entitled "Criminal Access" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Invest Georgia Exemptions" adopted. F. Nov. 18, 2011, Dec. 8, 2011.
Amended: F. Mar. 9, 2012; eff. Mar. 29, 2012.
Amended: F. Dec. 7, 2012; eff. Dec. 27, 2012.
Amended: F. Sep. 24, 2015; eff. Oct. 15, 2015.
Amended: F. June 21, 2017; eff. July 11, 2017.

Rule 590-4-2-.09. Request for Transactional Exemption Pursuant to a Fairness Determination.

(1) Any person seeking the Commissioner's approval, pursuant to O.C.G.A. § 10-5-11(9), of the fairness of the terms and conditions of the issuance and delivery of securities in exchange for outstanding securities, claims, or property interests, shall make application with the Commissioner as described in paragraph (2) below. The Commissioner may in his sole discretion reject any application. The Commissioner will only consider an application for a proposed exchange transaction where fifty one percent (51%) or more of the persons to whom it is proposed to issue securities or to deliver other consideration in an exchange under O.C.G.A. § 10-5-11(9) are persons who are Georgia residents, and:

(a) The applicant is a domestic business entity formed, organized or incorporated under the laws of Georgia; or

(b) The applicant is a business entity whose headquarters or principal place of business is located in Georgia.

(2) The application and all accompanying documents shall be type-written and submitted to the Commissioner in triplicate. The application shall be signed and dated by the applicant or by a person authorized to act in the applicant's behalf. The application shall request

that the Commissioner conduct a hearing pursuant to O.C.G.A. § 10-5-11(9) and shall contain the following information:

(a) The full legal name, state of incorporation, and principal office address of any person proposing to issue securities or deliver other consideration in the proposed exchange.

(b) A description of the proposed transaction, including but not limited to all parties to the transaction, all major lines of business engaged in by such parties, expected benefits of the transaction, a chronological description of the transaction to date, a projected timetable and description of all events necessary to consummate the transaction, all legal and financial advisors providing advice to any party to the transaction, and identification of any persons providing any valuation or fairness opinions to any party with respect to the securities or other consideration to be issued or exchanged in the proposed transaction.

(c) A description of the securities or other consideration to be issued or delivered in the proposed exchange.

(d) A description of the bona fide securities, claims or property interests for which the securities or other consideration referred to in paragraph (2)(c) are to be exchanged, including the full legal name, state of incorporation, and principal office address of the issuer of any such bona fide securities.

(e) A brief statement of the terms and conditions under which the securities or other consideration referred to in paragraph (2)(c) will be issued and exchanged or delivered and exchanged for the bona fide securities, claims or property interests.

(f) A list of the full legal names, addresses, and percentage interest owned of all persons to whom the securities will be issued or other consideration delivered in the exchange. If some or all of such persons are to receive the securities or other consideration by virtue of their ownership of shares of stock in a corporation, the applicant may comply with this requirement by submitting a list which shows the shareholders of the corporation and the number of shares and percentage of total shares held by each shareholder as of a date not more than 30 days prior to the filing of the application.

(g) A statement setting forth the distinct number of and percentage total of all persons named on the list to be provided pursuant to paragraph (2)(f) who are residents of Georgia.

(h) A statement setting forth proposed findings of fact which the applicant requests that the Commissioner find and incorporate in the Commissioner's written decision with respect to the application.

(i) A statement as to whether the applicant intends to rely on the exemption from federal securities registration provided for in Section 3(a)(10) of the Securities Act of 1933, 15 U.S.C. § 77 c(a)(10).

(j) Any additional information which the applicant desires the Commissioner to consider. The Commissioner may require the applicant to submit other information in addition to the information required by this Rule. The Commissioner may also waive or modify the requirements of this Rule by allowing the applicant to submit less information than this Rule would otherwise require.

(3) The application shall be accompanied by the following documents:

(a) All written agreements, and accompanying appendices, exhibits and/or attachments, governing the proposed transaction.

(b) All press releases or other media announcements regarding the proposed transaction disseminated by any party to the proposed transaction.

(c) A draft copy of the notice of the requested hearing to be held by the Commissioner in connection with the application that the applicant plans to mail to all persons to whom the applicant proposes to issue securities or to deliver other consideration in the proposed transaction.

(d) An audited balance sheet, prepared in accordance with generally accepted accounting principles applicable in the United States ("US GAAP"), as of the close of the most recent fiscal year of any person whose securities will be issued or exchanged in the proposed transaction.

(e) An audited income statement, prepared in accordance with US GAAP, for the most recent fiscal year of any person whose securities will be issued or exchanged in the proposed transaction.

(f) All valuation or fairness opinions identified in paragraph (2)(c), including all materials supporting any parties' valuation of the securities or other consideration to be issued or exchanged in the proposed transaction.

(g) Any other documents which the applicant desires the Commissioner to consider. The Commissioner may require the applicant to submit other documents in addition to the documents required by this Rule. The Commissioner may also waive or modify the requirements of this Rule by allowing the applicant to submit fewer documents other than those which this Rule would otherwise require.

(h) A non-refundable filing fee of five hundred dollars ($500.00).

(i) A written undertaking to pay, upon receipt of an invoice from the Commissioner, the fees and costs required by paragraph (4)(d) of this Rule.

(j) A completed and notarized Form U-2, Uniform Consent to Service of Process.

(4) The procedure following application shall be as follows:

(a) The Commissioner may inform the applicant of any deficiencies in the application or of any additional information or documents required and may require the applicant to amend or resubmit the application prior to setting a date for the hearing.

(b) The Commissioner, in his sole discretion, may retain an independent valuation consultant to review all of the materials submitted in paragraph (2)(f) of this Rule.

(c) Upon the filing of an application complying with the provisions of this Rule, correction of any deficiencies and/or amendment of the application as necessary, and receipt of all materials requested by the Commissioner, the Commissioner will, within a reasonable period of time, inform the applicant of the date, hour and place of the hearing.

(d) Upon the Commissioner's issuance of a Notice of Hearing pursuant to Rule 590-4-6-.07, the applicant shall remit to the Commissioner a non-refundable fairness proceeding fee of seven thousand five hundred dollars ($7,500.00) and shall reimburse the Commissioner for all costs incurred by the Commissioner in connection with the fairness proceeding, including any costs in connection with the retention of any independent valuation consultant.

(e) The applicant shall mail by United States Mail, Postage Prepaid, notice of such hearing to all persons to whom it is proposed to issue securities or to deliver such other consideration in such exchange, not less than 14 days prior to such hearing. The applicant shall provide to the Commissioner, on or before the date of the hearing, a certification that the notice of hearing has been so mailed.

(f) An evidentiary hearing shall be held by the Commissioner pursuant to Chapter 590-4-6 of the Commissioner's Rules, and the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-1, *et seq.*

(g) The applicant shall have the burden of proving the applicability of its claim for exemption under O.C.G.A. § 10-5-11(9).

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.09
Authority: O.C.G.A. § 10-5-11(9).
History. Original Rule entitled "Termination of Salesmen and Limited Salesmen" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Repealed: New Rule entitled "Termination of Dealers, Limited Dealers, Salespersons and Limited Salespersons" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.
Adopted: New rule entitled "Request for Transactional Exemption Pursuant to a Fairness Determination." F. Jul. 22,

2014; eff. Aug. 11, 2014.

Rule 590-4-2-.10. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.10
Authority: O.C.G.A. Sec. 10-5-10.
History. Original Rule entitled "Incomplete and Abandoned Applications" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-2-.11. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.11
Authority: O.C.G.A. Sec. 10-5-10.
History. Original Rule entitled "Renewal Applications" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: F. Jan. 16, 1984; eff. Feb. 5, 1984.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-2-.12. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.12
Authority: O.C.G.A. Sec. 10-5-10.
History. Original Rule entitled "Interim Licensing" adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Repealed: New Rule entitled "Temporary Salesman Registration" adopted. F. Jan. 16, 1984; eff. Feb. 5, 1984.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule entitled "Temporary Salesperson Registration" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-2-.13. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.13
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10.
History. Original Rule entitled "Bonds" adopted. F. Jan. 16, 1984; eff. Feb. 5, 1984.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-2-.14. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.14
Authority: O.C.G.A. Secs. 10-5-4, 10-5-10.
History. Original Rule entitled "Dishonest or Unethical Business Practices" adopted. F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-2-.15. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.15
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10.
History. Original Rule entitled "Training Certification" adopted as ER. 590-4-2-0.32-.15. F. July 2, 1990; eff. July 1, 1990, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Aug. 8, 1990; eff. Aug. 28, 1990.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-2-.16. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.16
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10.
History. Original Rule entitled "Designated Dealer Notification" adopted as ER. 590-4-2-0.32-.16. F. July 2, 1990; eff. July 1, 1990, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Aug. 8, 1990; eff. Aug. 28, 1990.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-2-.17. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.17
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10, 10-5-12.
History. Original Rule entitled "Compliance With Compensation Disclosure Requirements" adopted as ER. 590-4-2-0.32-.17. F. July 2, 1990; eff. July 1, 1990, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Aug. 8, 1990; eff. Aug. 28, 1990.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-2-.18. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.18
Authority: O.C.G.A. Sec. 10-5-10.
History. Original Rule entitled "Registration Effective Only While Employed or Associated" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-2-.19. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.19
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10.
History. Original Rule entitled "Cross Border Transactions" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-2-.20. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-2-.20
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10.
History. Original Rule entitled "Bank Employees Offering or Selling Securities Issued by the Bank" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Subject 590-4-3. REGISTRATION OF SECURITIES.

Rule 590-4-3-.01. Filing of Original Registration Statement; Power of Attorney.

(1) The completed registration statement, together with exhibits and all other documents included as a part thereof, shall be submitted to the Commissioner.

(2) The registration statement shall be completed by the Applicant or an authorized Officer of an Applicant.

(3) If any name is signed on a registration statement pursuant to a power of attorney, then copies of the power of attorney shall be filed with the Commissioner, together with the registration statement. In addition, if the name of any Officer signing such registration statement on behalf of the Applicant or attesting the Applicant's seal is signed pursuant to a power of attorney, then certified copies of a resolution of the Applicant's board of directors authorizing the signature shall also be filed with the Commissioner together with such registration statement.

(4) The completed registration statement, together with exhibits and all other documents included as a part thereof, required by this Rule may be made electronically on a form adopted by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 590-4-3-.01
Authority: O.C.G.A. Secs. 10-5-6, 10-5-10, 10-5-12, 10-5-24, 10-5-70, 10-5-74.
History. Original Rule entitled "Escrow" adopted as ER. 590-4-3-0.6-.01. F. and eff. April 1, 1974, the date of adoption.
Amended: Permanent Rule of same title adopted. F. July 5, 1974; eff. July 25, 1974.
Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Filing of Original Registration Statement; Power of Attorney" adopted. F. Nov. 18,

2011; eff. Dec. 8, 2011.

Rule 590-4-3-.02. Determination of Filing Date; Abandonment of Registration Statements.

(1) A registration statement required by Section 10-5-22 or 10-5-23 of the Act is considered filed when the Commissioner receives the registration statement and required filing fees, as prescribed from time to time by order of the Commissioner.

(2) Any registration statement filed pursuant to Section 10-5-22 or 10-5-23 of the Act is deficient if any of the following conditions exist:

(a) The registration statement is not in proper form;

(b) The registration statement does not comply with the applicable provisions of Section 10-5-22, 10-5-23, 10-5-24 or any other provision of the Act; or

(c) The registration statement does not comply with any other applicable state or federal law, statute, rule or regulation.

(3) When a registration statement is found to be deficient, the Commissioner may send a deficiency letter notifying the Applicant of such deficiencies. The registration statement shall be deemed to be abandoned by the Applicant without further action by the Commissioner if the Applicant fails to amend the registration statement to address such deficiencies within thirty (30) days following the date of such deficiency letter.

Cite as Ga. Comp. R. & Regs. R. 590-4-3-.02
Authority: O.C.G.A. Secs. 10-5-2, 10-5-5, 10-5-10, 10-5-70, 10-5-74.
History. Original Rule entitled "Supplementing 1957 Act Prospectuses" adopted as ER. 590-4-3-0.6-.02. F. and eff. April 1, 1974, the date of adoption.
Amended: Permanent Rule entitled "Securities Registered Pursuant to the Georgia Securities Act of 1957" adopted. F. July 5, 1974; eff. July 25, 1974.
Repealed: New Rule entitled "Communications Not Deemed to Be A Prospectus" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Amended: F. Sept. 27, 1990; eff. Oct. 17, 1990.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Determination of Filing Date; Abandonment of Registration Statements" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-3-.03. Paper, Printing, and Language.

(1) Unless otherwise permitted by the Commissioner, the registration statement and all papers and documents filed as a part thereof shall be in times new roman type or its

substantial equivalent, at least as large and as legible as 10-point modern type, except that financial statements and other tabular data, including tabular data in notes, may be in times new roman type or its substantial equivalent at least as large and as legible as 8-point modern type.

(2) The registration statement shall be in the English language. If any exhibit or other document filed with the registration statement is in a foreign language, it shall be accompanied by a translation into the English language accompanied by a sworn affidavit attesting to the accuracy of the translation.

Cite as Ga. Comp. R. & Regs. R. 590-4-3-.03
Authority: O.C.G.A. Secs. 10-5-5, 10-5-10, 10-5-14, 10-5-70, 10-5-74.
History. Original Rule entitled "Advertising" adopted as ER. 590-4-3-0.6-.03. F. and eff. April 1, 1974, the date of adoption.
Amended: Permanent Rule entitled "Communications Not Deemed to Be A Prospectus" adopted. F. July 5, 1974; eff. July 25, 1974.
Repealed: New Rule entitled "Subsequent Developments Material to an Effective Registration Statement" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Paper, Printing, and Language" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-3-.04. Contents of Registration Statements.

(1) Except as provided in subsection (2) of this Rule, every registration statement filed under Section 10-5-22 or Section 10-5-23 of the Act shall be on Form U-1, as made available on NASAA's website, or electronically in a form containing substantially similar disclosures, as permitted by order of the Commissioner.

(2) The registration statement to be filed under Section 10-5-23 of the Act in connection with any offer or sale of securities offered or sold in compliance with SEC Rule 504 adopted pursuant to the Securities Act of 1933 or Section (4)(5), 15 U.S.C. § 77 d(5), of the Securities Act of 1933, and for which a Form D has been filed with the SEC shall consist of the most recently filed Form D, as filed with the SEC, in lieu of the registration statement required in subsection (1) of this Rule. A filing under this subsection shall be made electronically, as permitted by order of the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 590-4-3-.04
Authority: O.C.G.A. Secs. 10-5-6, 10-5-10, 10-5-70, 10-5-74.
History. Original Rule entitled "Issuer's Quarterly and Annual Reports" adopted as ER. 590-4-3-0.6-.04. F. and eff. April 1, 1974, the date of adoption.
Amended: Permanent Rule entitled "Subsequent Developments Material to an Effective Registration Statement" adopted. F. July 5, 1974; eff. July 25, 1974.
Repealed: New Rule entitled "Issuer's Quarterly and Annual Reports" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: F. Sept. 27, 1990; eff. Oct. 17, 1990.

Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Contents of Registration Statements" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-3-.05. General Requirements of Prospectus.

The following general requirements shall apply to every prospectus required to be filed with the Commissioner, unless otherwise provided for.

(1) Unless otherwise permitted by the Commissioner, the body of the prospectus and all notes to financial statements and other tabular data included therein shall be in times new roman type or its substantial equivalent, at least as large and as legible as 10-point modern type, except that financial statements and other tabular data, including tabular data in notes, may be in times new roman type or its substantial equivalent, at least as large and as legible as 8-point modern type. A prospectus in the final form approved by the Commissioner shall be deemed to have met all requirements of this subsection.

(2) Photographs or conceptions or renderings by artists, architects or engineers are only permitted to be included in a prospectus to the extent they are necessary for a fair understanding of the subject and provided that such photographs, conceptions and renderings are not misleading. Accurate maps or surveys are permissible where appropriate. Established corporate symbols or trademarks may be used, provided they do not create misleading impressions.

(3) The information set forth in a prospectus should be presented in a clear and understandable fashion. All information contained in a prospectus shall be set forth under appropriate captions or headings reasonably indicative of the principal subject matter set forth. Except as to financial statements and other tabular data, all information set forth in a prospectus shall be divided into reasonably short paragraphs or sections. The information required in a prospectus need not follow the order of the items or topics set forth in these rules. The information shall not, however, be set forth in a manner that obscures any of the required information or any information necessary to keep the required information from being incomplete or misleading.

(4) The prospectus shall include all material information not expressly required that is necessary under the circumstances to make the statements not misleading and shall include all information material to an evaluation of the offered security.

Cite as Ga. Comp. R. & Regs. R. 590-4-3-.05
Authority: O.C.G.A. Secs. 10-5-5, 10-5-10, 10-5-14, 10-5-53, 10-5-70, 10-5-74.
History. Original Rule entitled "Issuer's Quarterly and Annual Reports" adopted. F. July 5, 1974; eff. July 25, 1974.
Repealed: New Rule entitled "Records to Be Made and Maintained by Issuers of Registered Securities" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "General Requirements of Prospectus" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-3-.06. Delivery and Contents of Prospectus.

(1) Filing. Each registration statement filed under the Act shall include a prospectus to be used in connection with the proposed securities offering.

(2) Prospectus Delivery Requirements. As a condition of registration, an Applicant shall comply with the following:

(a) A person offering or selling a security under a registration statement filed pursuant to Section 10-5-23 of the Act shall deliver a copy of the final prospectus to each prospective purchaser before the confirmation of a sale made by or for the account of the person. Each subscription agreement shall contain a statement by the purchaser that the purchaser has received a copy of the prospectus.

(b) A person offering or selling a security under a registration statement filed pursuant to Section 10-5-22 of the Act shall deliver a copy of the prospectus as and to the extent required by the Securities Act of 1933.

(3) Form and Content.

(a) General Requirements. Each prospectus required to be included in a registration statement pursuant to this Rule shall satisfy the requirements of Rule 590-4-3-.05, unless the Commissioner waives or modifies such requirements.

(b) Registration by Coordination. Each prospectus included in a registration statement filed pursuant to Section 10-5-22 of the Act shall include the information required in Part I of the registration statement filed (or to be filed) by the issuer under the Securities Act of 1933 relating to such proposed securities offering, unless the Commissioner waives or modifies such requirements pursuant to Section 10-5-26 of the Act.

(c) Registration by Qualification. Each prospectus included in a registration statement filed pursuant to Section 10-5-23 of the Act, including a prospectus that forms a part of a registration statement filed pursuant to Rule 590-4-3-.04(2),shall include the following information as applicable, unless the Commissioner waives or modifies such requirements pursuant to Section 10-5-26 of the Act:

1. If the proposed offering to be registered under Section 10-5-23 of the Act is made in compliance with Regulation A under the Securities Act of 1933, then the information in the prospectus required by this rule shall be the information required by the then current version of Form 1-A under Regulation A;

2. If the proposed offering to be registered under Section 10-5-23 of the Act is made in compliance with SEC Rule 504 adopted pursuant to the Securities Act of 1933 or Section 4(5), 15 U.S.C. § 77 d(5), of the Securities Act of 1933, then the information in the prospectus required by this rule shall be in

the information required by the then current version of Form U-7 (Small Company Offering Registration Form), available on NASAA's website; or

3. In all other cases, such information as may be ordered by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 590-4-3-.06
Authority: O.C.G.A. Secs. 10-5-10, 10-5-23, 10-5-70, 10-5-74.
History. Original Rule entitled "Records to Be Made and Maintained by Issuer's of Registered Securities" adopted. F. July 5, 1974; eff. July 25, 1974.
Repealed: New Rule entitled "Determination of Filing Date, Waiver of Time Limits, and Abandonment of Registration Statements" adopted. F. Dec. 9, 1980; eff. Dec. 29, 1980.
Repealed: New Rule entitled "Determination of Filing Date; Waiver of Time Limits; Abandonment of Registration Statements" adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule entitled "Determination of Filing Date; Time Limits; Abandonment of Registration Statements" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Delivery and Contents of Prospectus" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-3-.07. Amendments to Registration Statements.

If at any time during which a registration statement is effective under the Act, any statement contained in such registration statement becomes materially inaccurate or misleading as of that time, then the Applicant shall within five (5) days thereafter file with the Commissioner a sworn statement of the changes in the circumstances and the amendments necessary to render such registration statement complete and accurate and not misleading. The sworn statement of changes shall become a part of such registration statement. Within five (5) days thereafter, the Commissioner shall determine whether to order that such statement of the changes be included in the prospectus under Rules 590-4-3-.05 and 590-4-3-.06. If the Commissioner so orders, such statement of changes shall be included into such prospectus by way of addendum or supplement and delivered pursuant to Rule 590-4-3.06(2).

Cite as Ga. Comp. R. & Regs. R. 590-4-3-.07
Authority: O.C.G.A. Secs. 10-5-2, 10-5-10, 10-5-12, 10-5-53, 10-5-70, 10-5-74.
History. Original Rule entitled "Non-Profit Issuer Registration: Proceeds Escrow; Original Transfer Agent; Definitions of "Sale" and "Executive Officer"; Registration Procedures" adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Amended: F. Sept. 27, 1990; eff. Oct. 17, 1990.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Amendments to Registration Statements" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-3-.08. Petition for Waiver or Modification of Requirements.

(1) An Applicant may petition the Commissioner to exercise his or her authority under Section 10-5-26 of the Act to waive or modify any of the requirements permitted to be so waived or modified pursuant to Section 10-5-26 of the Act. Such petition shall:

(a) Be sworn;

(b) Describe the requirements that the Applicant seeks be waived or modified and the requested waiver or modification thereof; and

(c) State the basis for the Applicant's belief that such waiver or modification is consistent with the protection of investors.

(2) Based on the representations set forth in such petition and only to the extent that such representations are true and complete, the Commissioner may grant the waiver or modification so requested by the Applicant if the Commissioner concludes such waiver or modification is permitted by Section 10-5-26 of the Act and is consistent with the protection of investors.

(3) The Commissioner may decline to rule on any petition filed under this Rule 590-4-3-.08.

Cite as Ga. Comp. R. & Regs. R. 590-4-3-.08
Authority: O.C.G.A. Secs. 10-5-6, 10-5-10, 10-5-26.
History. Original Rule entitled "Additional Assessments" adopted. F. Jan. 16, 1984; eff. Feb. 5, 1984.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Petition for Waiver or Modification of Requirements" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-3-.09. Issuer's Quarterly and Annual Reports.

(1) In addition to the financial statements required to be filed pursuant to Section 10-5-23 of the Act, every issuer who has registered securities for sale in this state pursuant to Code Section 10-5-23 of the Act shall, for a period of twelve (12) months following the effective date of such registration statement, or any renewals thereof, file with the Commissioner:

(a) Within sixty (60) days of the close of each fiscal quarter of the issuer of the securities registered, except the last fiscal quarter of each fiscal year, the following financial statements:

1. Consolidated statements of financial position (i.e., balance sheet), income, and cash flows of the issuer and its subsidiaries for each fiscal quarter;

2. Consolidated statement of shareholders' equity for the issuer and its subsidiaries for each such fiscal quarter. Such statement may contain the

items specified in Form 10-Q promulgated by the SEC under the Securities Exchange Act of 1934.

(b) Within ninety (90) days of the close of such issuer's fiscal year the following financial statements:

1. Consolidated statements of financial position (i.e., balance sheet), income, and cash flows for the issuer and its subsidiaries for such fiscal year; and

2. A consolidated statement of shareholders' equity of the issuer and its subsidiaries for each such fiscal year. Such statement may contain the items specified in Form 10-K, promulgated by the SEC under the Securities Exchange Act of 1934.

(c) If a substantial part of the proceeds of the offering is to be applied to the purchase of any business, the same financial statements that would be required in subparagraphs (a) and (b) above if that business were the issuer; provided, however, if the issuer does not compile its financial statements in the normal course of its business on a consolidated basis, then it may furnish, in lieu of the consolidated financial statements required in subparagraphs (a) and (b) above and this subparagraph (c), individual financial statements for it and its majority-owned subsidiaries.

(2) The financial statements required by this Rule 590-4-3-.09 to be filed with the Commissioner may be filed electronically, provided that the Commissioner has established procedures for electronic filing.

(3) A copy of each financial statement filed with the Commissioner pursuant to this Rule 590-4-3-.09 shall be delivered promptly following such filing with the Commissioner to each investor in this State who purchased securities pursuant to the registration statement.

Cite as Ga. Comp. R. & Regs. R. 590-4-3-.09
Authority: O.C.G.A. Secs. 10-5-5, 10-5-10, 10-5-24, 10-5-70.
History. Original Rule entitled "Registration of Insurance Companies as Issuers" adopted. F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Issuer's Quarterly and Annual Reports" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-3-.10. Financial Statements.

(a) Except as otherwise expressly provided in Rule 590-4-3-.09, as to definitions, qualifications of accountants, contents of accountant's certificates, requirements of consolidated or combined statements, and the form and content of financial statements

(including any prospective financial statements or pro forma financial statements), the Commissioner shall apply Regulation S-X as adopted by the SEC in its most recent form as of the date of the filing of the registration statement, prospectus or other document containing such financial statements as required by the Act or any rule adopted by the Commissioner thereunder.

(b) The Commissioner may, upon the written request of the Applicant and where consistent with the protection of investors, permit the omission of one or more financial statements required under Rule 590-4-3-.09, or the filing in substitution therefor of an appropriate comparable character. The Commissioner may also, by written notice, require the filing of other financial statements in addition to, or in substitution for, the financial statements in any case where the financial statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of investors.

Cite as Ga. Comp. R. & Regs. R. 590-4-3-.10
Authority: O.C.G.A. Secs. 10-5-10, 10-5-12, 10-5-24, 10-5-70, 10-5-74.
History. Original Rule entitled "Rescission of Designated Securities Transaction" adopted as ER. 590-4-3-0.33-.10. F. July 2, 1990; eff. July 1, 1990, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Aug. 8, 1990; eff. Aug. 28, 1990.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Financial Statements" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-3-.11. Renewals of Registration Statements.

A registration statement filed pursuant to the Act may be renewed for additional one year periods if the issuer files with the Commissioner at least thirty (30) days prior to anniversary of effective date of such registration statement an updated prospectus prepared in accordance with the rules adopted by the Commissioner containing information as of a date no more than 90 days prior the filing date thereof together with the renewal fee prescribed by the Commissioner. Unless the Commissioner issues an order specifying otherwise, the renewal of such registration statement becomes effective on the anniversary of expiration of the original registration statement, and such renewed registration statement shall be effective for one year.

Cite as Ga. Comp. R. & Regs. R. 590-4-3-.11
Authority: O.C.G.A. Secs. 10-5-10, 10-5-12, 10-5-24, 10-5-70, 10-5-74.
History. Original Rule entitled "Quotation System" adopted as ER. 590-4-3-0.33-.11. F. July 2, 1990; eff. July 1, 1990, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Aug. 8, 1990; eff. Aug. 28, 1990.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Renewals of Registration Statements" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-3-.12. Filing of Sales and Advertising Literature Relating to Securities Offerings Registered by Qualification.

(1) Except as provided in this Rule, Sales and Advertising Literature used or proposed to be used in connection with the offer or sale of securities registered under Section 10-5-23 of the Act must be filed with the Commissioner at least five (5) business days prior to issuance, release, circulation or distribution thereof.

(2) The following Sales and Advertising Literature are not required to be filed with the Commissioner pursuant to this Rule:

(a) An advertisement, the content of which is limited to the information specified in Rule 134(a) adopted by the SEC under the Securities Act of 1933 and includes a statement that such advertisement does not constitute an offer to sell or the solicitation of an offer to buy a security and the name and address from whom a prospectus can be obtained;

(b) Customary quarterly, annual and other periodic reports to security holders, proxy statements, dividend notices, and similar documents that are routinely sent to security owners; and

(c) The prospectus included in the registration statement filed with the Commissioner relating to such offering of securities.

Cite as Ga. Comp. R. & Regs. R. 590-4-3-.12
Authority: O.C.G.A. Secs. 10-5-5, 10-5-10, 10-5-23, 10-5-70, 10-5-74.
History. Original Rule entitled "Total Aggregate Offering Amount of Small Issue Registrations" adopted as ER. 590-4-3-0.33-.12. F. July 2, 1990; eff. July 1, 1990, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Aug. 8, 1990; eff. Aug. 28, 1990.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Filing of Sales and Advertising Literature Relating to Securities Offerings Registered by Qualification" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-3-.13. Escrow and Impoundment of Proceeds.

(1) In any case where securities are to be registered for sale pursuant to Section 10-5-23 of the Act, and the issuer of such securities has not had any substantial gross revenues from the sale of products or services or any substantial net income from any source for any fiscal year ended during the past three years and has not succeeded, and does not intend to succeed, to any business that has had any substantial gross revenues from the sale of products or services, or any substantial net income from any source, for any fiscal year ended during the past three years, the following shall be required as conditions to registration:

(a) Except in an offering pursuant to an underwriting agreement under which no securities will be sold unless all securities to be offered are sold, pursuant to a written escrow agreement, the deposit into escrow of 100% of the proceeds from the sale of such registered securities until the amount deposited in such escrow

equals or exceeds the amount referenced in the prospectus and approved by the Commissioner.

1. This escrow account shall be with a bank, trust company or other escrow agent approved by the Commissioner.

2. Until the escrow account contains the specified amount, the issuer shall cause 100% of the proceeds from the sale of such registered securities to be deposited directly into this account as soon as practicable after receipt. The escrow agreement may provide for disbursement to the issuer of up to 15% of the amount deposited until the specified amount is paid in.

3. The escrow agreement shall provide that if the escrow account does not contain the specified amount on the specified date no later than one year after the effective date of the registration, then all amounts contained in the escrow account, including all interest earned thereon, if any, shall be returned to the securities purchasers whose payments were deposited into the escrow account. The amount of repayment to each purchaser shall be determined by multiplying the fraction, the numerator of which is the amount of each such purchaser's payments that have been deposited into the escrow account and the denominator of which is the aggregate amount of all deposits of purchaser payments into the escrow account, by the aggregate amount contained in the escrow account immediately prior to the repayment.

4. If the offering proceeds are to be used for a specific purpose, including, but not limited to, the purchase of real or personal property, the escrow agreement shall provide that, upon termination of the escrow account, the escrow funds shall be paid over to the attorney who is to handle the purchase closing.

5. The escrow agreement shall provide that the funds held in escrow, when released, will be used for the specific purposes stated in the prospectus, or offering circular, filed as part of the registration statement required by the Act.

6. The escrow agreement shall provide that, upon termination of the escrow account and payout of the escrow funds, the escrow agent shall notify the Commissioner of the time of disbursement and to whom the funds were disbursed.

(b) The deposit in an escrow account beginning on or before the date of the registration statement's effectiveness and continuing for a period of one (1) year from the termination of the registration statement's effectiveness and any renewal thereof:

1. Any securities of the same class issued or transferred to a person who is an executive officer, director, general partner or affiliate of the issuer or to any other person authorized to sell such securities for the issuer, still beneficially owned by such person, except a dealer or limited dealer registered with the Commissioner and selling pursuant to an underwriting agreement that is disclosed in the prospectus delivered to each purchaser; or

2. Any securities of the same class as the securities registered that are to be issued to any person specified in subparagraph (1)(b)1.above, at a price below the proposed offering price of such securities or for a consideration other than cash.

(2) No interest in any security held in an escrow account provided for in paragraph (b) above shall be offered for sale, sold, assigned or transferred during the existence of such escrow account without the written consent of the Commissioner. The Commissioner may grant such consent when there has been a significant change of circumstances or to avoid an undue hardship, but only if he deems such consent consistent with the protection of investors.

(3) If the issuer intends to use the proceeds of an offering for a specific purpose or acquisition as stated in the prospectus or offering circular, and the issuer does not fall within the provisions of paragraphs (1)(a) or (1)(b) of this Rule, then the Commissioner may require the issuer to hold the proceeds of the offering in escrow until the funds reach the amount necessary to accomplish said purpose or acquisition. Said requirement by the Commissioner shall be based upon the provisions of Section 10-5-50 of the Act for the protection of investors.

(4) A final copy of any escrow agreement required by this Rule, signed by both the escrow agent and the issuer, shall be included as an exhibit to the registration statement filed with the Commissioner.

(5) The requirements of this Rule may be superseded or modified in writing by the Commissioner if he or she determines that such requirements are not necessary to protect investors with respect to a particular issue of securities.

Cite as Ga. Comp. R. & Regs. R. 590-4-3-.13
Authority: O.C.G.A. Secs. 10-5-5, 10-5-10, 10-5-23, 10-5-24, 10-5-53, 10-5-70, 10-5-74.
History. Original Rule entitled "Financial Statement Certifications" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005. Repealed: New Rule entitled "Escrow and Impoundment of Proceeds" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-3-.14. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-3-.14
Authority: O.C.G.A. Secs. 10-5-5, 10-5-10.

History. Original Rule entitled "Small Issuer Registration Forms" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005. Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-3-.15. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-3-.15
Authority: O.C.G.A. Secs. 10-5-5, 10-5-10.
History. Original Rule entitled "Electronic Filings" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005. Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Subject 590-4-4. INVESTMENT ADVISERS AND REPRESENTATIVES.

Rule 590-4-4-.01. Electronic Filing with Designated Entity.

(1) **Designation.** Pursuant to O.C.G.A. Sec. 10-5-35, the Commissioner designates the web-based Investment Adviser Registration Depository ("IARD") to receive and store filings and collect related fees from investment advisers and investment adviser representatives on behalf of the Commissioner.

(2) Use of IARD. Unless otherwise provided, all investment adviser and investment adviser representative applications, amendments, reports, notices, related filings and fees required to be filed with the Commissioner pursuant to the rules promulgated under the Act, shall be filed electronically with and transmitted to IARD. The following additional conditions relate to such electronic filings:

   a. Electronic Signature. When a signature or signatures are required by the particular instructions of any filing to be made electronically through IARD, a duly authorized officer of the applicant or the applicant him or herself, as required, shall affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing electronically to IARD. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individuals whose names are typed on the filing.

   b. When filed. Solely for purposes of a filing made electronically through IARD, a document is considered filed with the Commissioner when all fees are received and the filing is accepted by IARD on behalf of the state.

(3) Electronic Filing. Notwithstanding subsection (2) of this Rule, the electronic filing of any particular document and the collection of related processing fees shall not be required until such time as IARD provides for receipt of such filings and fees and notice is provided by the Commissioner. Any documents or fees required to be filed with the Commissioner that are not permitted to be filed with or cannot be accepted electronically by IARD shall be filed directly with the Commissioner

(4) Filed Record. Every document filed with IARD or CRD shall be deemed to have been made in a "record" filed under the Act for purposes of O.C.G.A. Sec. 10-5-54.

(5) Processing Fee. Each Investment Advisor Representative applicant shall pay a $5.00 processing fee payable through CRD. No portion of the processing fee is refundable. Applications will not be accepted, and thus will not be considered filed by the Commissioner, until registrants have paid the processing fee. The fee shall be effective for applications filed after December 31, 2021.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.01
Authority: O.C.G.A. §§ 10-5-35, 10-5-39, 10-5-70, 10-5-74.
History. Original Rule entitled "Untrue and Misleading Statements Prohibited" adopted. F. July 5, 1974; eff. July 25, 1974.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule entitled "Untrue and Misleading Statements" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Electronic Filing with Designated Entity" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.
Amended: F. Mar. 9, 2012; eff. Mar. 29, 2012.
Amended: F. Dec. 9, 2021; eff. Dec. 29, 2021.

Rule 590-4-4-.02. Application for Investment Adviser Registration.

(1) Initial Application. The application for initial registration as an investment adviser pursuant to O.C.G.A. Sec. 10-5-32 shall be made by completing Form ADV (Uniform Application for Investment Adviser Registration) in accordance with the form instructions and by filing the form electronically with IARD. The application for initial registration shall also include the following:

(a) Proof of compliance by the investment adviser with the examination requirements of Rule 590-4-4-.09;

(b) Any financial statements required by Rule 590-4-4-.18(1), including a copy of the balance sheet for the last fiscal year, and if such balance sheet is as of a date more than forty-five (45) days from the date of filing of the application, an unaudited balance sheet prepared as set forth in Rule 590-4-4-.18(2);

(c) The fee required by O.C.G.A. Sec. 10-5-39(c) and;

(d) Any other information the Commissioner may reasonably require.

(2) Form ADV Part II. The Commissioner requires Part 2 (including Parts 2A and 2B) to be filed electronically with IARD.

(3) Annual Renewal. The application for annual renewal registration as an investment adviser shall be filed electronically with IARD. The application for annual renewal registration shall include the fee required by O.C.G.A. Sec. 10-5-39(c).

(4) Updates and Amendments.

(a) An investment adviser must file amendments to the investment adviser's Form ADV electronically with IARD, in accordance with the instructions in the Form ADV, including instructions specifying the time periods within which amendments must be filed;

(b) An amendment will be considered to be filed "promptly," as that term is used in the instructions to Form ADV, if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment; and

(c) Within ninety (90) days of the end of the investment adviser's fiscal year, an investment adviser must file electronically with IARD an Annual Updating Amendment to the Form ADV.

(5) Certain Filings Deemed Initial Applications. The following shall be deemed initial applications for registration even though designated as amendments:

(a) A Form ADV filed by an investment adviser corporation, partnership, sole proprietorship, or other entity that is not registered when the form is filed and succeeds to, and continues the business of, a predecessor entity registered as an investment adviser if the succession is based solely on a change in the predecessor's form of organization and the amendment is filed to reflect that change;

(b) A Form ADV filed by an investment adviser partnership that is not registered when such form is filed and that succeeds to, and continues the business of, a predecessor partnership registered as an investment adviser if it is filed to reflect the changes in the partnership and to furnish required information concerning any new partners; or

(c) A Form ADV filed by an investment adviser corporation that is not registered when the form is filed and that succeeds to, and continues the business of, a predecessor corporation registered as an investment adviser if the succession is based solely on a change in the predecessor's state of incorporation and the amendment is filed to reflect that change.

(6) Completion of Filing. An application for initial or renewal registration is not considered filed for purposes of O.C.G.A. Sec. 10-5-32 until the required fee and all required submissions have been received by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.02
Authority: O.C.G.A. Secs. 10-5-5, 10-5-6, 10-5-32.
History. Original Rule entitled "Installment Sales of Registered Securities" adopted. F. July 5, 1974; eff. July 25, 1974.
Repealed: New Rule of same title adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Application for Investment Adviser Registration" adopted. F. Nov. 18, 2011; eff. Dec.

8, 2011.
Amended: F. Mar. 9, 2012; eff. Mar. 29, 2012.

Rule 590-4-4-.03. Notice Filing Requirements for Federal Covered Investment Advisers.

(1) Notice Filing. The notice filing for a federal covered investment adviser pursuant to O.C.G.A. Sec. 10-5-34(c) shall be filed electronically with IARD on an executed Form ADV (Uniform Application for Investment Adviser Registration). A notice filing of a federal covered investment adviser shall be deemed filed when the fee required by O.C.G.A. Sec. 10-5-39(e) and the Form ADV are filed electronically with and accepted by IARD on behalf of the state.

(2) Form ADV Part 2. The Commissioner may:

(a) Accept a copy of Part 2 of Form ADV as filed electronically with IARD; or

(b) Deem Part 2 of Form ADV filed if a federal covered investment adviser provides, within 5 days of a request, Part 2 of Form ADV to the Commissioner. Because the Commissioner deems Part 2 of Form ADV to be filed, a federal covered investment adviser is not required to submit Part 2 of Form ADV to the Commissioner unless requested.

(3) Renewal. The annual renewal of the notice filing for a federal covered investment adviser pursuant to O.C.G.A. Sec. 10-5-34(c) shall be filed electronically with IARD. The renewal of the notice filing for a federal covered investment adviser shall be deemed filed when the fee required by O.C.G.A. Sec. 10-5-39(e) is filed with and accepted by IARD on behalf of the state.

(4) Updates and Amendments. A federal covered investment adviser must file electronically with IARD, in accordance with the instructions in the Form ADV, any amendments to the federal covered investment adviser's Form ADV.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.03
Authority: O.C.G.A. Secs. 10-5-10, 10-5-12, 10-5-34.
History. Original Rule entitled "Fraudulent Conduct Prohibited" adopted. F. Apr. 13, 1983; eff. May 3, 1983.
Amended: Authority changed. F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Notice Filing Requirements for Federal Covered Investment Advisers" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-4-.04. Investment Advisers Switching to or from SEC Registration.

(1) Investment Advisers Switching to SEC Registration. If an investment adviser is registered with the Commissioner and subsequently applies for registration with the SEC, then no later than 10 days after becoming effective with the SEC, the investment adviser shall file its Form ADV-W (Notice of Withdrawal from Registration as Investment Adviser) and notice file as a federal covered investment adviser pursuant to O.C.G.A. Sec. 10-5-34(c) with the Commissioner through IARD.

(2) Federal Covered Investment Advisers Switching from SEC Registration. If a federal covered investment adviser registered with the SEC loses its eligibility to be registered with the SEC, then no later than 10 days after filing its Form ADV-W through IARD, the federal covered investment adviser must terminate its state notice filing with the Commissioner and file its Form ADV with the Commissioner to register as an investment adviser, unless otherwise exempt from registration with the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.04
Authority: O.C.G.A. Secs. 10-5-10, 10-5-12, 10-5-35.
History. Original Rule entitled "Limitation on Designated Dealer Compensation" adopted as ER. 590-4-4-0.34-.04. F. July 2, 1990; eff. July 1, 1990, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Aug. 8, 1990; eff. Aug. 28, 1990.
Repealed: New Rule entitled "Dishonest or Unethical Business Practices" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Investment Advisers Switching to or From SEC Registration" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-4-.05. Application for Investment Adviser Representatives.

(1) Initial Application. The application for initial registration as an investment adviser representative pursuant to O.C.G.A. Sec. 10-5-33 shall be made by completing Form U4 (Uniform Application for Securities Industry Registration or Transfer) in accordance with the form instructions and by filing the Form U4 electronically on CRD. The application for initial registration shall also include the following:

(a) Proof of compliance by the investment adviser representative with the examination requirements of Rule 590-4-4-.09;

(b) The fee required by O.C.G.A. Sec. 10-5-39(d).

(2) Annual Renewal. The application for annual renewal registration as an investment adviser representative shall be filed electronically on CRD. The application for annual renewal registration shall include the fee required by O.C.G.A. Sec. 10-5-39(d).

(3) Updates and Amendments.

(a) The investment adviser representative is under a continuing obligation to update information required by Form U4 as changes occur.

(b) An investment adviser representative and the investment adviser must electronically file promptly on CRD any amendments to the representative's Form U4; and

(c) An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment.

(4) Completion of Filing. An application for initial or renewal registration is not considered filed for purposes of O.C.G.A. Sec. 10-5-33 until the required fee and all required submissions have been received by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.05
Authority: O.C.G.A. Secs. 10-5-10, 10-5-12, 10-5-33.
History. Original Rule entitled "Market Timing and Late Trading" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005. Repealed: New Rule entitled "Application for Investment Adviser Representatives" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-4-.06. Multiple Registrations.

(1) An individual may apply to be registered as an investment adviser representative for more than one investment adviser or federal covered investment adviser by the filing of a separate U-4 application through CRD by each investment adviser or federal covered investment adviser and the payment of separate application fees as required through CRD. The Commissioner may deny the multiple registration applications if he or she determines that it is not in the best interests of the public. By having the multiple registration applications submitted on his or her behalf, the investment adviser representative affirmatively represents that he or she will make all disclosures to his or her clients and the effected investment adviser or federal covered investment adviser regarding potential or actual conflicts of interests.

(2) Each investment adviser or federal covered investment adviser that employs a multiple registered investment adviser representative shall comply with the requirements of CRD and IARD regarding the multiple registrations of investment adviser representatives.

(3) Nothing in this Rule shall relieve the investment adviser or federal covered investment adviser for whom an investment adviser representative is actually acting of the responsibilities imposed by the Act for the transactions of each investment adviser representative.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.06
Authority: O.C.G.A. Sec. 10-5-35.
History. Original Rule entitled "Multiple Registration" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-4-.07. Incomplete and Abandoned Applications.

(1) Any application for registration as an investment adviser or investment adviser representative is deficient if any of the following conditions exist:

(a) The application is not in proper form; or

(b) The application is not in compliance with Code Section 10-5-35 or any other provision of the Act or the Rules.

(2) When an application is found to be deficient, the Commissioner may send a letter explaining the deficiency to the applicant and, if the applicant is an investment adviser representative, to the investment adviser who employs or proposes to employ the applicant. The application shall be deemed to be abandoned by the applicant if the Commissioner receives no communication from the applicant for a period of sixty (60) days after the applicant receives the deficiency letter, the Commissioner may issue an order pursuant to Code Section 10-5-41, denying the application.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.07
Authority: O.C.G.A. Sec. 10-5-35.
History. Original Rule entitled "Incomplete and Abandoned Applications" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.
Amended: F. Mar. 9, 2012; eff. Mar. 29, 2012.

Rule 590-4-4-.08. Investment Adviser and Investment Advuiser Representative Renewal Notices.

(1) All procedures, renewal schedules, and fee collection methods announced by the IARD as well as the CRD shall be applicable to registrations processed through IARD and/or CRD.

(2) All renewal notices must be filed with all necessary information and required filing fees no earlier than October 1st and no later than December 31st of each year.

(3) Investment Adviser Representatives required to be registered with the Commissioner shall submit an annual renewal fee directly to IARD and/or CRD. Renewal of registration shall be effective when notice from IARD and/or CRD has been received by the Commissioner that all fees have been paid.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.08
Authority: O.C.G.A. Sec. 10-5-35.
History. Original Rule entitled "Investment Adviser and Investment Adviser Representative Renewal Notices" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.
Amended: F. Mar. 9, 2012; eff. Mar. 29, 2012.

Rule 590-4-4-.09. Examination Requirements.

(1) Unless otherwise waived by the Commissioner, an investment adviser, registered or required to be registered pursuant to Section 10-5-32, or an investment adviser representative, registered or required to be registered pursuant to Section 10-5-33, shall take and pass within the two-year period immediately preceding the date of the application, except in regards to the Securities Industry Essentials (SIE) Exam which the applicant shall take and pass within the four-year period immediately preceding the date of the application:

(a) The Uniform Investment Adviser State Law Examination (Series 65); or

(b) The Uniform Combined State Law Examination (Series 66), the Securities Industry Essentials (SIE) Exam, and the General Securities Representative Examination (Series 7/S7TO).

(2) In the event the applicant for registration as an investment adviser is an entity, rather than an individual, the examination shall be taken on behalf of the applicant by one of its officers, a general partner, a manager, or other managing executive of comparable status and position.

(3) Any person who has been registered as an investment adviser or an investment adviser representative in any state requiring the licensing, registration or qualification of investment advisers or investment adviser representatives within the two year period immediately preceding the date of filing an application shall not be required to comply with the examination requirement set forth in subsection (1) of this Rule.

(4) Compliance with subsections (1) and (2) of this Rule is waived if the applicant has been awarded any of the following designations and, at the time of filing an application, is current and in good standing:

(a) Certified Financial Planner (CFP) awarded by the Certified Financial Planners Board of Standards;

(b) Chartered Financial Consultant (ChFC) or Masters of Science and Financial Services (MSFS) awarded by the American College, Bryn Mawr, Pennsylvania;

(c) Chartered Financial Analyst (CFA) awarded by the Institute of Chartered Financial Analysts;

(d) Personal Financial Specialists (PFS) awarded by the American Institute of Certified Public Accountants; or

(e) Chartered Investment Counselor (CIC) awarded by the Investment Adviser Association.

(5) An applicant shall not be required to meet the examination requirement in subsection (1) of this Rule if:

(a) The applicant is an agent for a broker-dealer that is also registered as an investment adviser; and

(b) As an agent for a broker-dealer, the applicant is not required by his/her home jurisdiction to make a separate filing on CRD as an investment adviser representative but has previously met the examination requirement in subsection (1) of this Rule necessary to provide advisory services on behalf of the broker-dealer/investment adviser.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.09
Authority: O.C.G.A. §§ 10-5-32, 10-5-33, 10-5-35, 10-5-41, 10-5-74.
History. Original Rule entitled "Examination Requirements" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.
Amended: F. Mar. 9, 2012; eff. Mar. 29, 2012.
Amended: F. Mar. 8, 2019; eff. Mar. 28, 2019.

Rule 590-4-4-.10. Withdrawal of Investment Adviser Registration.

The application for withdrawal of registration as an investment adviser pursuant to Section 10-5-38 of the Act shall be completed by following the instructions on Form ADV-W (Notice of Withdrawal from Registration as Investment Adviser) and filed electronically upon Form ADV-W with IARD.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.10
Authority: O.C.G.A. Sec. 10-5-38.
History. Original Rule entitled "Withdrawal of Investment Adviser Registration" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-4-.11. Notice of Termination of Investment Adviser Representative Registration.

The notice of termination as an investment adviser representative pursuant to Section 10-5-37(a) of the Act shall be completed by following the instructions on Form U5 (Uniform Termination Notice for Securities Industry Registration) and filed electronically upon Form U5 on CRD within 30 days of the date of termination.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.11
Authority: O.C.G.A. Sec. 10-5-37.
History. Original Rule entitled "Notice of Termination of Investment Adviser Representative Registration" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-4-.12. Exclusions from the Defition of Investment Adviser Representative.

The following persons are excluded from the definition of Investment Adviser Representative:

(1) A person who is employed by or associated with a federal covered investment adviser who either:

(a) Does not have "a place of business" in this jurisdiction as that term is defined in the rules and regulations promulgated under Section 203(A) of the Investment Adviser's Act of 1940 by the U.S. Securities and Exchange Commission; or

(b) Is not an "Investment Adviser Representative" as that term is defined in rules or regulations promulgated under Section 203(A) of the Investment Adviser's Act of 1940 by the U.S. Securities and Exchange Commission; and either:

1. Is a "Supervised Person" as that term is defined in rules or regulations promulgated under the Investment Adviser's Act of 1940 by the U.S. Securities and Exchange Commission; or

2. Does not solicit, offer, or negotiate for the sale of or sell investment adviser services on behalf of any federal covered adviser.

(2) A person who receives compensation to solicit, offer, or negotiate for the sale of or for selling investment advice and who:

(a) Is not subject to the supervision and control of an investment adviser, does not provide investment advice on behalf of the investment adviser and is not required to be registered as an investment adviser representative for reasons other than the solicitation activities described herein;

(b) Is not regulated or required to be regulated by the U.S. Securities and Exchange Commission;

(c) Either:

1. Does not make a determination or representation as to the suitability or advisability of a prospective client entering into a relationship with a particular investment adviser or federal covered investment adviser and merely provides a list of one or more investment advisers for the prospective client; or

2. Receives compensation for soliciting, offering or negotiating for the sale of or for selling investment advisory services with respect to 10 or fewer persons in this State in any calendar year and is not otherwise engaged in the business of being a solicitor; or

3. Is an attorney or certified public accountant licensed to practice such profession in the State of Georgia, acts as a solicitor with respect only to persons with whom he or she has an existing client relationship in connection with such profession and who does not, by virtue of acting as a solicitor, violate any rules relating to such profession;

(d) Discloses in writing to the potential client his or her relationship or affiliation with the investment advisers who are the subject of the solicitation activities and that he or she will be receiving compensation as a result of the solicitation activities; and

(e) Is not an "investment adviser representative" by reason of any conduct or activity other than the receipt of compensation for soliciting, offering or negotiating for the sale of or for selling investment advisory services.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.12
Authority: O.C.G.A. Sec. 10-5-2(19)(D).
History. Original Rule entitled "Exclusions form the Definition of Investment Adviser Representative" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-4-.13. Registration Exemption for Certain Investment Advisers and Federal Covered Investment Adviser.

(1) The provisions of Sections 10-5-32(a) and 10-5-34(a) shall not apply to:

(a) Any investment adviser or federal covered investment adviser whose only clients are insurance companies;

(b) Any investment adviser or federal covered investment adviser who during the course of the preceding 12 months has had fewer than six clients in this state; or

(c) Any broker-dealer, registered pursuant to Section 10-5-30, if such broker-dealer is acting as an investment adviser solely:

1. By means of publicly distributed written materials or publicly made oral statements;

2. By means of written materials or oral statements that do not purport to meet the objectives or needs of specific individuals or accounts;

3. Through the issuance of statistical information containing no expressions of opinion as to the investment merits of a particular security; or

4. Through any combination of the foregoing services; provided, however, that the materials and oral statements include a statement that, if the purchaser of the advisory communication uses the services of the adviser in connection with a sale or purchase of a security that is a subject of the communication, the adviser may act as principal for its own account or as agent for another person; provided, however, that such disclosure does not relieve the investment adviser of any disclosure obligation that, depending upon the nature of the relationship between the investment adviser and the client, may be imposed by operation of law, the Act or these Rules.

(2) Definitions Relating to Subsection (1)(b).

(a) For purposes of subsection (1)(b) of this Rule, the following are deemed to be a single "Client:"

1. A natural person and minor child of the natural person;

2. A natural person and relative, spouse, or relative of the spouse of the natural person who has the same principal residence;

3. All accounts of which the natural person and/or the persons referred to in this subparagraph (b) are the only primary beneficiaries;

4. All trusts of which the natural person and/or any persons referred to in this subparagraph (b) are the only primary beneficiaries;

5. A corporation, general partnership, limited partnership, limited liability company, trust (other than a trust referred to in this subparagraph), or other legal organization (any of which are referred to hereinafter as a "legal organization") that receives investment advice based on its investment objectives rather than the individual investment objectives of its shareholders, partners, limited partners, members, or beneficiaries (any of which are referred to hereinafter as an "owner"); and

6. Any other method, as adopted by order of the Commissioner, for determining who may be a single client for purposes of this Rule.

(b) Special Rules. For purposes of this Rule:

1. An owner must be counted as a client if the investment adviser provides investment advisory services to the owner separate and apart from the investment advisory services provided to the legal organization; provided, however, that the determination that an owner is a client will not affect the applicability of this Rule to any other owner;

2. An owner need not be counted as a client of an investment adviser solely because the investment adviser, on behalf of the legal organization, offers, promotes, or sells interests in the legal organization to the owner, or reports periodically to the owners as a group solely with respect to the performance of, or plans for, the legal organization's assets or similar matters;

3. A limited partnership is a client of any general partner or other person acting as an investment adviser to the partnership; and

4. Any person for whom an investment adviser provides investment advisory services without compensation need not be counted as a client.

(3) For purposes of subsection (1)(c) of this Rule,"publicly distributed written materials" are those that are distributed to thirty-five (35) or more persons paying for such materials, and publicly made oral statements are those made simultaneously to thirty-five (35) or more persons paying for access to the statements.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.13
Authority: O.C.G.A. Secs. 10-5-32, 10-5-33, 10-5-34.
History. Original Rule entitled "Registration Exemptions for Certain Investment Advisers and Federal Covered Investment Advisers" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-4-.14. Books and Records to Be Maintained by Investment Advisers; Routine Examinations and Fees.

(1) Every investment adviser registered or required to be registered under the Act shall make and keep true, accurate, and current the following books, ledgers, and records relating to its investment advisory business:

(a) All of those books and records required to be maintained and preserved in compliance with SEC Rule 204-2 promulgated under the Investment Advisers Act of 1940, notwithstanding the fact that the investment adviser is not registered nor required to be registered under the Investment Advisers Act of 1940.

(b) All trial balances, financial statements prepared in accordance with generally accepted accounting principles or other applicable accounting standard, and internal audit working papers relating to the investment adviser's business as an investment adviser.

(c) A list, or other record, of all accounts with respect to the funds, securities, or transactions of any client.

(d) A copy, in paper or electronic format, of each investment advisory agreement entered into by the investment adviser with any client.

(e) A file containing a copy of each record required by SEC Rule 204-2(a)(11) promulgated under the Investment Advisers Act of 1940 including any communication by electronic media that the investment adviser circulates or distributes, directly or indirectly, to ten (10) or more persons (other than persons connected with the investment adviser).

(f) A copy of each written statement and each amendment or revision given or sent to any client or prospective client of the investment adviser in accordance with the provisions of Rule 590-4-4-.16, and a record of the dates that each written statement and each amendment or revision was given or offered to be given to any client or prospective client who subsequently becomes a client.

(g) For each client that was obtained by the investment adviser by means of a solicitor to whom a fee was paid by the investment adviser, all records required by SEC Rule 206(4)-3 promulgated under the Investment Advisers Act of 1940, notwithstanding the fact that the investment adviser is not registered nor required to be registered under the Investment Advisers Act of 1940. For the purpose of relying on the solicitation exemption contained in *Rule 590-4-4-.12*, all documents demonstrating compliance with *Rule 590-4-4-.12*.

(h) All records required by SEC Rule 204-2(a)(16) promulgated under the Investment Advisers Act of 1940 including, but not limited to, electronic media that the investment adviser circulates or distributes, directly or indirectly, to two (2) or more persons (other than persons connected with the investment adviser).

(i) A file containing a copy of all written communications received or sent regarding any litigation involving the investment adviser or any investment adviser representative or employee, or regarding any written customer or client complaint.

(j) Written information about each investment advisory client that is the basis for making any recommendation or providing any investment advice to such client.

(k) Written procedures for supervising the activities of employees and investment adviser representatives that are reasonably designed to achieve compliance with applicable securities laws and regulations.

(l) A file containing a copy of each document (other than any notices of general dissemination) that was filed with, or received from, any state or federal agency or self regulatory organization that pertains to the registrant or its investment adviser representatives. The file should contain, but is not limited to, all applications, amendments, renewal filings, and correspondence.

(m) For investment advisers that have custody, as that term is defined in Rule 590-4-4-.20, of client funds or securities, all records and evidence of compliance with Rule 590-4-4-.20.

(2) Every investment adviser subject to paragraph (1) of this Rule shall preserve the following records in the manner prescribed:

(a) Except as provided by subparagraphs (2)(b) and (2)(c) of this Rule, all books and records required to be made under the provisions of this Rule shall be maintained and preserved in an easily accessible place for a period of not less than five (5) years from the end of the fiscal year during which the last entry was made on such record, of which the first two (2) years shall be in the principal office of the investment adviser.

(b) Except as provided in subparagraph (2)(c)(ii), books and records required to be made under the provisions of subparagraphs (1)(e) and (1)(h) of this Rule shall be maintained and preserved in an easily accessible place for a period of not less than five (5) years from the end of the fiscal year during which the investment adviser last published, or otherwise disseminated, directly or indirectly, the notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication.

(c) Notwithstanding other record preservation requirements of this Rule, the following records or copies are required to be maintained at the business location of the investment adviser from which the customer or client is being provided, or has been provided, investment advisory services:

1. Records required to be preserved under:

(i) Paragraphs (a)(3), (a)(7)-(10), (a)(14)-(15), (b) and (c) inclusive, of SEC Rule 204-2 of the Investment Advisers Act of 1940; and

(ii) Subparagraphs (1)(i)-(k) of this Rule.

2. The records or copies required under the provisions of subparagraphs (1)(e), (1)(h), and (1)(l) of this Rule that identify the name of the investment adviser representative providing investment advice from that business location, or that identify the business location's physical address, mailing address, electronic mailing address, or telephone number. These records shall be maintained for the period described in subparagraph (2)(b) of this Rule.

(d) Partnership articles and any amendments thereto, articles of incorporation, charters, minute books, and stock certificate books of the investment adviser, and of any predecessor, shall be maintained in the principal office of the investment

adviser and preserved until at least three (3) years after termination of the enterprise.

(e) An investment adviser subject to paragraph (1) of this Rule, before ceasing to conduct or discontinuing business as an investment adviser, shall arrange for, and be responsible for, the preservation of the books and records required to be maintained and preserved under this Rule for the remainder of the period specified in this Rule, and shall notify the Commissioner in writing of the exact address where such books and records will be maintained during such period.

(3) To the extent that the SEC promulgates changes to the above-referenced rules of the Investment Advisers Act of 1940, investment advisers in compliance with such rules, as amended, shall not be subject to enforcement action by the Commissioner for violating this Rule to the extent that the violation results solely from the investment adviser's compliance with the amended rule.

(4) Every investment adviser that maintains its principal place of business in a state other than Georgia shall be exempt from the requirements of this Rule, provided that the investment adviser is licensed in such other state and is in compliance with that state's recordkeeping requirements.

(5) The records of an investment adviser registered under the Act are subject to such reasonable periodic or special inspections by a representative of the Commissioner as the Commissioner considers necessary or appropriate in the public interest and for the protection of investors. An inspection may be made at any time and without prior notice. The Commissioner may copy and remove any record the Commissioner reasonably considers necessary or appropriate to conduct the inspection. The fee for a routine examination of an investment adviser shall be:

(a) $ 150 for an investment adviser with assets under management of one (1) million dollars or less;

(b) $ 200 for an investment adviser with assets under management of more than one (1) million dollars but not more than five (5) million dollars;

(c) $ 250 for an investment adviser with assets under management of more than five (5) million dollars but not more than ten (10) million dollars;

(d) $ 300 for an investment adviser with assets under management of more than ten (10) million dollars but not more than twenty (20) million dollars;

(e) $ 400 for an investment adviser with assets under management of more than twenty (20) million dollars but not more than forty (40) million dollars;

(f) $ 600 for an investment adviser with assets under management of more than forty (40) million dollars but not more than sixty (60) million dollars;

(g) $ 800 for an investment adviser with assets under management of more than sixty (60) million dollars but not more than eighty (80) million dollars; and

(h) $ 1000 for an investment adviser with assets under management of more than eighty (80) million dollars.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.14
Authority: O.C.G.A. Sec. 10-5-40(c).
History. Original Rule entitled "Books and Records to Be Maintained by Investment Advisers" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.
Repealed: New Rule entitled "Books and Records to be Maintained by Investment Advisers; Routine Examinations and Fees" adopted. F. Mar. 9, 2012; eff. Mar. 29, 2012.
Amended: F. Dec. 7, 2012; eff. Dec. 27, 2012.

Rule 590-4-4-.15. Supervision of Investment Adviser Representatives and Employees.

(1) Every investment adviser registered or required to be registered under the Act, shall exercise diligent supervision over the investment advisory activities of its investment adviser representatives and employees.

(2) Each investment adviser representative and other office employees shall be subject to supervision by the investment adviser. The investment adviser shall be responsible for administering its policies and procedures.

(3) Written policies and procedures, a copy of which shall be kept in each business office, shall be established, maintained, and enforced and shall set forth the standards and procedures adopted to comply with the requirements imposed by the Act and the Rules.

(4) The investment adviser shall be responsible for inspecting each office location at least annually to ensure that its written policies and procedures are enforced.

(5) It shall be the responsibility of each investment adviser registered or required to be registered under the Act to make certain that, when required by the Act or these Rules, investment adviser representatives have been properly registered prior to rendering investment advice and that proof of the investment adviser representative's registration is immediately accessible prior to his or her rendering such advice.

(6) It shall be the responsibility of each investment adviser registered or required to be registered under the Act, and its supervisory personnel, to ensure that all employees of the investment adviser are properly trained regarding the disclosure requirements and the civil and criminal liability provisions of the Act.

(7) For the purposes of this rule, no person shall be deemed to have failed reasonably to supervise any other person if:

(a) There have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other persons, and

(b) Such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures were not being complied with.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.15
Authority: O.C.G.A. Secs. 10-5-51, 10-5-70.
History. Original Rule entitled "Supervision of Investment Adviser Representatives and Employees" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.
Amended: F. Mar. 9, 2012; eff. Mar. 29, 2012.

Rule 590-4-4-.16. Investment Adviser Brochure Rule.

(1) General Requirements. Unless otherwise provided in this rule, an investment adviser, registered or required to be registered pursuant to O.C.G.A. Sec. 10-5-32 shall, in accordance with the provisions of this section, furnish each advisory client and prospective advisory client with:

(a) A brochure, which may be a copy of Part 2A of its Form ADV, or written documents containing the information required by Part 2A of Form ADV;

(b) A copy of its Part 2B brochure supplement for each individual

1. Providing investment advice and having direct contact with clients in this state; or

2. Exercising discretion over assets of clients in this state, even if no direct contact is involved;

(c) A copy of its Part 2A Appendix 1 wrap fee brochure if the investment adviser is a sponsor or participates in a Wrap Fee Program;

(d) A summary of material changes, which may be included in Form ADV Part 2 or given as a separate document; and

(e) Such other information as the Commissioner may require.

(f) The brochure must comply with the language, organizational format and filing requirements specified in the Instructions to Form ADV Part 2, as published by the SEC.

(2) Delivery.

(a) Initial Delivery. An investment adviser, except as provided in subsection (2)(c), shall deliver the Part 2A brochure and any brochure supplements required by this section to a prospective advisory client:

1. Not less than 48 hours prior to entering into any advisory contract with such client or prospective client; or

2. At the time of entering into any such contract, if the advisory client has a right to terminate the contract without penalty within five business days after entering into the contract.

(b) Annual Delivery. An investment adviser, except as provided in subsection (2)(c), must:

1. Deliver within 120 days of the end of its fiscal year a free, updated brochure and related brochure supplements which include or are accompanied by a summary of material changes; or

2. Deliver a summary of material changes that includes an offer to provide a copy of the updated brochure and supplements and information on how the client may obtain a copy of the brochures and supplements. Advisers do not have to deliver a summary of material changes or a brochure to clients if no material changes have taken place since the last summary and brochure delivery.

(c) Delivery of the brochure and related brochure supplements required by subsections (2)(a) and (b) need not be made to:

1. Clients who receive only Impersonal Advice and who pay less than $500 in fees per year; or

2. An investment company registered under the Investment Company Act of 1940; or

3. A business development company as defined in the Investment Company Act of 1940 and whose advisory contract meets the requirements of section 15c of that Act.

(d) Delivery of the brochure and related supplements may be made electronically if the investment adviser:

1. In the case of an initial delivery to a potential client, obtains a verification that a readable copy of the brochure and supplements were received by the client;

2. In the case of other than initial deliveries, obtains each client's prior consent to provide the brochure and supplements electronically;

3. Prepares the electronically delivered brochure and supplements in the format prescribed in the instructions to Form ADV Part 2; and

4. Delivers the brochure and supplements in a format that can be retained by the client in either electronic or paper forms;

(3) Other Disclosures. Nothing in this rule shall relieve any investment adviser from any obligation pursuant to any provision of the Act or the Rules thereunder or other federal or state law to disclose any information to its advisory clients or prospective advisory clients not specifically required by this Rule.

(4) Definitions. For the purpose of this Rule:

(a) "Impersonal Advice" means the provision of investment advisory services:

1. By means of written material or oral statements which do not purport to meet the objectives or needs of specific individuals or accounts;

2. Through the issuance of statistical information containing no expression of opinion as to the investment merits of a particular security; or

3. Any combination of the foregoing services.

(b) "Entering into," in reference to an advisory contract, does not include an extension or renewal without material change of any such contract which is in effect immediately prior to such extension or renewal.

(c) "Sponsor" means an investment adviser that is compensated under a wrap fee program for administering, organizing or sponsoring the program, or for selecting or providing advice to clients regarding the selection of other investment advisers in the program.

(d) "Wrap fee program" means a program under which a client is charged a specified fee or fees not based directly on transactions in a client's account for investment advisory services (which may include portfolio management or advice concerning the selection of other investment advisers) and execution of client transactions.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.16
Authority: O.C.G.A. Secs. 10-5-51, 10-5-70.
History. Original Rule entitled "Investment Adviser Brochure Rule" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-4-.17. Contents of an Investment Advisory Contract.

(1) It is unlawful for any investment adviser, registered or required to be registered pursuant to Section 10-5-32, or investment adviser representative, registered or required to be registered pursuant to Section 10-5-33, to enter into, extend, or renew any investment advisory contract unless it provides in writing:

(a) The services to be provided, the term of the contract, the investment advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of termination or non-performance of the contract, and any grant of discretionary power to the investment adviser;

(b) That no direct or indirect assignment or transfer of the contract may be made by the investment adviser without the consent of the client or other party to the contract;

(c) That the investment adviser, if a partnership, shall notify the client or other party to the investment contract of any change in the membership of the partnership within a reasonable time after the change.

(2) It is unlawful for any investment adviser, registered or required to be registered pursuant to Section 10-5-32, or investment adviser representative, registered or required to be registered pursuant to Section 10-5-33, to enter into, extend or renew any investment advisory contract that:

(a) Includes any condition, stipulation, or provisions binding any person to waive compliance with any provision of the Act or of the Investment Advisers Act of 1940, or any other practice contrary to the provisions of Section 215 of the Investment Advisers Act of 1940;

(b) Is contrary to the provisions of Section 205 of the Investment Advisers Act of 1940. This provision shall apply to all advisers registered or required to be registered under this Act, notwithstanding whether such adviser would be exempt from federal registration pursuant to Section 203(b) of the Investment Advisers Act of 1940.

(3) The provisions of subsections (1) and (2) of this Rule apply to federal covered investment advisers to the extent that the conduct alleged is fraudulent, deceptive, or as otherwise permitted by the National Securities Markets Improvement Act of 1996.

(4) Notwithstanding subsection (2)(b) of this rule, an investment adviser may enter into, extend or renew an investment advisory contract which provides for compensation to the investment adviser on the basis of a share of capital gains upon or capital appreciation of the funds, or any portion of the funds, if the requirements of all of the following requirements (a) through (d) are met:

(a) The client is a Qualified Client;

(b) The compensation paid to the investment adviser with respect to the performance of any securities over a given period must be based on a formula with the following characteristics:

1. In the case of securities for which market quotations are readily available within the meaning of Rule 2a-4(a)(1) under the Investment Company Act of 1940 (Definition of "Current Net Asset Value" for Use in Computing Periodically the Current Price of Redeemable Security), the formula must include the realized capital losses and unrealized capital depreciation of the securities over the period; and

2. In the case of securities for which market quotations are not readily available within the meaning of Rule 2a-4(a)(1) under the Investment Company Act of 1940, the formula must include:

   (i) The realized capital losses of securities over the period; and

   (ii) If the unrealized capital appreciation of the securities over the period is included, the unrealized capital depreciation of the securities over the period.

(c) Before entering into the advisory contract and in addition to the requirements of Form ADV, the investment adviser must disclose in writing to the client or the Client's Independent Agent all material information concerning the proposed advisory arrangement, including the following:

1. That the fee arrangement may create an incentive for the investment adviser to make investments that are riskier or more speculative than would be the case in the absence of a performance fee;

2. Where relevant, that the investment adviser may receive increased compensation with regard to unrealized appreciation as well as realized gains in the client's account;

3. The periods that will be used to measure investment performance throughout the contract and their significance in the computation of the fee;

4. The nature of any index which will be used as a comparative measure of investment performance, the significance of the index, and the reason the investment adviser believes that the index is appropriate; and

5. Where the investment adviser's compensation is based in part on the unrealized appreciation of securities for which market quotations are not readily available within the meaning of Rule 2a-4(a)(1) under the Investment Company Act of 1940, how the securities will be valued and the extent to which the valuation will be independently determined.

(d) The investment adviser (and any investment adviser representative acting on behalf of such investment adviser) who enters into the contract must reasonably believe, immediately before entering into the contract, that the contract represents an arm's length arrangement between the parties and that the client (or in the case of a client which is a Company as defined in subsection (6)(d) of this rule, the person representing the Company), alone or together with the client's independent agent, understands the proposed method of compensation and its risks. The representative of a Company may be a partner, director, officer or an employee of the company or the trustee, where the Company is a trust, or any other person designated by the company or trustee, but must satisfy the definition of client's independent agent set forth in subsection (6)(c) of this rule.

(5) Any person entering into or performing an investment advisory contract under this rule is not relieved of any obligations under Rule 590-4-4-.19 or any other applicable provision of the Act or any rule or order thereunder.

(6) Nothing in this rule shall relieve a Client's Independent Agent from any obligation to the client under applicable law.

(7) The following definitions apply for purposes of this rule:

(a) "Affiliate" shall have the same definition as in Section 2(a)(3) of the Investment Company Act of 1940.

(b) "Assignment," as used in subparagraph (1)(b) of this Rule, includes, but is not limited to, any transaction or event that results in any change to the individuals or entities with the power, directly or indirectly, to direct the management or policies of, or to vote more than 50 percent of any class of voting securities of, the investment adviser as compared to the individuals or entities who had such power as of the date when the contract was first entered into, extended or renewed.

(c) "Client's Independent Agent" means any person who agrees to act as an investment advisory client's agent in connection with the contract, but does not include:

1. The investment adviser relying on this Rule;

2. An affiliated person of the investment adviser or an affiliated person of an affiliated person of the investment adviser including an investment adviser representative;

3. An interested person of the investment adviser;

4. A person who receives, directly or indirectly, any compensation in connection with the contract from the investment adviser, an affiliated person of the investment adviser, an affiliated person of an affiliated person

of the investment adviser or an interested person of the investment adviser; or

5. A person with any material relationship between himself (or an affiliated person of that person) and the investment adviser (or an affiliated person of the investment adviser) that exists, or has existed at any time during the past two years.

(d) "Company" means a corporation, partnership, association, joint stock company, trust, or any organized group of persons, whether incorporated or not; or any receiver, trustee in a case under title 11 of the United States Code, or similar official or any liquidating agent for any of the foregoing, in his capacity as such. "Company" shall not include:

1. A company required to be registered under the Investment Company Act of 1940 but which is not so registered;

2. A private investment company (for purposes of this subparagraph (B), a private investment company is a company which would be defined as an investment company under Section 3(a) of the Investment Company Act of 1940 but for the exception from that definition provided by Section 3(c)(1) of that act);

3. An investment company registered under the Investment Company Act of 1940; or

4. A business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940, unless each of the equity owners of any such company, other than the investment adviser entering into the contract, is a natural person or a company within the meaning of subsection (6)(d) of this rule.

(e) "Interested person" means:

1. Any member of the immediate family of any natural person who is an affiliated person of the investment adviser;

2. Any person who knowingly has any direct or indirect beneficial interest in, or who is designated as trustee, executor, or guardian of any legal interest in, any security issued by the investment adviser or by a controlling person of the investment adviser if that beneficial or legal interest exceeds:

(i) One-tenth of one percent of any class of outstanding securities of the investment adviser or a controlling person of the investment adviser; or

(ii) Five percent of the total assets of the person seeking to act as the client's independent agent; or

(iii) Any person or partner or employee of any person who, at any time since the beginning of the last two years, has acted as legal counsel for the investment adviser.

(f) "Qualified Client" means a person or entity described in Section 205(b)(2), (b)(4) or (b)(5) of the Investment Advisers Act of 1940, a Business Development Company as defined in the Investment Advisers Act of 1940 if the conditions of Section 205(b)(3) are met, or any other person defined as a "Qualified Client" under Rule 205-3(d)(1) under the Investment Advisers Act.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.17
Authority: O.C.G.A. Sec. 10-5-51.
History. Original Rule entitled "Contents of an Investment Advisory Contract" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.
Amended: F. Mar. 9, 2012; eff. Mar. 29, 2012.

Rule 590-4-4-.18. Financial Reporting Requirements for Investment Advisers.

(1) Every investment adviser registered or required to be registered pursuant to Section 10-5-32 of the Act, who has custody of client funds or securities or requires payment of its advisory fees six (6) months or more in advance and in excess of $500 per client shall file with the Commissioner an audited balance sheet as of the end of the investment adviser's most recent fiscal year. Each balance sheet filed pursuant to this Rule must be:

(a) Prepared in conformity with generally accepted accounting principles;

(b) Audited by an independent certified public accountant in accordance with generally accepted auditing standards; and

(c) Accompanied by an opinion of the accountant as to the report of financial position, and by a note stating the principles used to prepare it, the basis of included securities, and any other explanations required for clarity.

(2) Any investment adviser may be required by the Commissioner to file a financial statement showing the investment adviser's financial condition as of the most recent practicable date. Except as provided in subsection (1) of this rule, such financial statements need not be audited.

(3) The financial statements required by this Rule shall be filed with the Commissioner within ninety (90) days following the end of the investment adviser's fiscal year.

(4) Every investment adviser that has its principal place of business in a state other than this State shall file only such reports as required by the state in which the investment adviser maintains its principal place of business, provided the investment adviser is registered or licensed in such state and is in compliance with such state's financial reporting requirements.

(5) For purposes of this rule,"custody" shall have the same meaning as in Rule 590-4-4-.20.

(6) An investment adviser is not required to comply with subsection (1) of this Rule if all of the following are met:

(a) The investment adviser has custody of funds solely as a consequence of its authority to make withdrawals from client accounts to pay its advisory fee;

(b) The investment adviser has written authorization from the client to deduct advisory fees from the account held with the qualified custodian; and

(c) The investment adviser notifies the Commissioner in writing, via Form ADV, that it employs the safekeeping procedures of Rule 590-4-4-.20, excluding subsection (1)(f) thereof.

(7) Any filing made pursuant to subsections (1) or (2) of this Rule may be made electronically as provided for by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.18
Authority: O.C.G.A. Sec. 10-5-40.
History. Original Rule entitled "Financial Reporting Requirements for Investment Advisers" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-4-.19. Prohibited Conduct in Providing Investment Advice.

A person who is an investment adviser, an investment adviser representative or a federal covered investment adviser is a fiduciary and has a duty to act primarily for the benefit of its clients. The provisions of this subsection apply to federal covered investment advisers to the extent that the conduct alleged is fraudulent, deceptive, or as otherwise permitted by the National Securities Markets Improvement Act of 1996. While the extent and nature of this duty varies according to the nature of the relationship between an investment adviser, an investment adviser representative or a federal covered investment adviser and its clients and the circumstances of each case, an investment adviser, an investment adviser representative or a federal covered investment adviser shall not engage in prohibited fraudulent, deceptive, or manipulative conduct, including but not limited to the following:

(1) Recommending to a client to whom investment advisory services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the

client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser, investment adviser representative or federal covered investment adviser.

(2) Exercising any discretionary authority in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within ten (10) business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary authority relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both.

(3) Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account.

(4) Placing an order to purchase or sell a security for the account of a client without authority to do so.

(5) Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party trading authorization from the client.

(6) Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment adviser or a financial institution engaged in the business of loaning funds.

(7) Loaning money or securities to a client unless the investment adviser is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment adviser.

(8) Misrepresenting to any client, or prospective client, the qualifications of the investment adviser, investment adviser representative, federal covered investment adviser, or any employee, or person affiliated with the investment adviser, investment adviser representative or federal covered investment adviser, or misrepresenting the nature of the advisory services being offered or fees to be charged for such service, or to omit to state a material fact necessary to make the statements made regarding qualifications, services or fees, in light of the circumstances under which they are made, not misleading.

(9) Providing a report or recommendation to any client prepared by someone other than the investment adviser, investment adviser representative or federal covered investment adviser without disclosing that fact. This prohibition does not apply to a situation where the investment adviser, investment adviser representative or federal covered investment adviser uses published research reports or statistical analyses to render advice or where an investment adviser, investment adviser representative or federal covered investment adviser orders such a report in the normal course of providing service.

(10) Charging a client an unreasonable fee.

(11) Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the investment adviser, investment adviser representative or federal covered investment adviser, or any of its employees, or affiliated persons which could reasonably be expected to impair the rendering of unbiased and objective advice including but not limited to:

(a) Compensation arrangements connected with investment advisory services to clients which are in addition to compensation from such clients for such services; and

(b) Charging a client an investment advisory fee for rendering investment advice when compensation for effecting securities transactions pursuant to such advice will be received by the investment adviser, investment adviser representative or federal covered investment adviser or its employees, or affiliated persons.

(12) While acting as principal for its own advisory account, to knowingly sell any security to or purchase any security from a client, or while acting as broker-dealer for a person other than the client, to knowingly effect any sale or purchase of any security for the account of the client, without disclosing to the client in writing before the completion of the transaction the capacity in which it is acting and obtaining the consent of the client to the transaction.

(a) The prohibitions of this subsection shall not apply to any transaction with a customer of a broker-dealer if the broker-dealer is not acting as an investment adviser in relation to the transaction.

(b) The prohibitions of this subsection shall not apply to any transaction with a customer of a broker-dealer if the broker-dealer acts as an investment adviser solely:

1. By means of publicly distributed written materials or publicly made oral statements;

2. By means of written materials or oral statements not purporting to meet the objectives or needs of specific individuals or accounts;

3. Through the issuance of statistical information containing no expressions of opinion as to the investment merits of a particular security; or

4. Any combination of the foregoing services.

(c) Publicly distributed written materials or publicly made oral statements shall disclose that, if the purchaser of the advisory communication uses the investment adviser's services in connection with the sale or purchase of a security which is a subject of the communication, the investment adviser may act as principal for its own account or as agent for another person. Compliance by the investment

adviser with the foregoing disclosure requirement shall not relieve it of any other disclosure obligations under the Act.

(d) Definitions for purposes of this Rule include:

1. "Publicly distributed written materials" means written materials that are distributed to 35 or more persons who pay for those materials.

2. "Publicly made oral statements" means oral statements made simultaneously to 35 or more persons who pay for access to those statements.

(13) The prohibitions of this Rule shall not apply to an investment adviser effecting an agency cross transaction for an advisory client provided the following conditions are met:

(a) The advisory client executes a written consent prospectively authorizing the investment adviser to effect agency cross transactions for such client;

(b) Before obtaining such written consent from the client, the investment adviser makes full written disclosure to the client that, with respect to agency cross transactions, the investment adviser will act as broker-dealer for, receive commissions from and have a potentially conflicting division of loyalties and responsibilities regarding both parties to the transactions;

(c) At or before the completion of each agency cross transaction, the investment adviser or any other person relying on this rule sends the client a written confirmation. The written confirmation shall include:

1. A statement of the nature of the transaction;

2. The date the transaction took place;

3. An offer to furnish, upon request, the time when the transaction took place; and

4. The source and amount of any other remuneration the investment adviser received or will receive in connection with the transaction. In the case of a purchase, if the investment adviser was not participating in a distribution, or, in the case of a sale, if the investment adviser was not participating in a tender offer, the written confirmation may state whether the investment adviser has been receiving or will receive any other remuneration and that the investment adviser will furnish the source and amount of such remuneration to the client upon the client's written request;

(d) At least annually, and with or as part of any written statement or summary of the account from the investment adviser, the investment adviser or any other person relying on this rule sends each client a written disclosure statement identifying:

1. The total number of agency cross transactions during the period for the client since the date of the last such statement or summary; and

2. The total amount of all commissions or other remuneration the investment adviser received or will receive in connection with agency cross transactions for the client during the period.

(e) Each written disclosure and confirmation required by this rule must include a conspicuous statement that the client may revoke the written consent required under subsection (13)(a) of this rule at any time by providing written notice to the investment adviser.

(f) No agency cross transaction may be effected in which the same investment adviser recommended the transaction to both any seller and any purchaser.

(g) For purposes of this rule,"agency cross transaction for an advisory client" means a transaction in which a person acts as an investment adviser in relation to a transaction in which the investment adviser, or any person controlling, controlled by, or under common control with such investment adviser, including an investment adviser representative, acts as a broker-dealer for both the advisory client and another person on the other side of the transaction. When acting in such capacity, such person is required to be registered as a broker-dealer in this state unless excluded from the definition.

(h) Nothing in this rule shall be construed to relieve an investment adviser or investment adviser representative from acting in the best interests of the client, including fulfilling his duty with respect to the best price and execution for the particular transaction for the client nor shall it relieve any investment adviser or investment adviser representative of any other disclosure obligations imposed by the Act.

(14) Guaranteeing a client that a specific result will be achieved with advice rendered.

(15) Publishing, circulating or distributing any advertisement that does not comply with Rule 206(4)-1 under the Investment Advisers Act of 1940.

(16) Making, in the solicitation of clients, any untrue statement of a material fact, or omitting to state a material fact necessary in order to make the statement made, in light of the circumstances under which they are made, not misleading.

(17) Failing to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information contrary to the provisions of Section 204A of the Investment Advisers Act of 1940.

(18) Disclosing the identity, investments, or other financial information of any client or former client unless required by law to do so, or unless consented to by the client.

(19) Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment adviser has custody or possession of such securities or funds when the action of the investment adviser or investment adviser representative is subject to and does not comply with the requirements of Rule 590-4-4-.20.

(20) Engaging in any act, practice, or course of business that is fraudulent, deceptive, manipulative or unethical.

(21) Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of the Act or any rule or regulation thereunder.

(22) Paying a cash fee, directly or indirectly, to an unregistered investment adviser representative required to register under the Act, including any solicitor whose conduct does not meet the exclusion described in Rule 590-4-4-.12.

(23) Employing an investment adviser representative who is not registered as required by the Act.

(24) Exercising voting authority with respect to client securities, unless the investment adviser:

(a) Adopts and implements written policies and procedures that are reasonably designed to ensure that it votes client securities in the best interest of its clients, which procedures must include how the investment adviser addresses material conflicts that may arise between the investment adviser's interests and those of its clients.

(b) Discloses to clients how its clients may obtain information from the investment adviser about how it voted with respect to the clients' securities;

(c) Describes to clients its proxy voting policies and procedures and, upon request, furnishes a copy of the policies and procedures to the requesting client.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.19
Authority: O.C.G.A. Sec. 10-5-51.
History. Original Rule entitled "Prohibited Conduct in Providing Investment Advice" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-4-.20. Custody Requirements for Investment Advisers.

(1) Safekeeping Required. It is unlawful and deemed to be a fraudulent, deceptive, or manipulative act, practice, or course of business for an investment adviser, registered or required to be registered pursuant to Section 10-5-32, to have custody of client funds or securities unless:

(a) Notice to Commissioner. The investment adviser notifies the Commissioner promptly in writing that the investment adviser has or may have custody. Such notification is required to be given on Form ADV;

(b) Qualified Custodian. A qualified custodian maintains those funds and securities:

1. In a separate account for each client under that client's name; or

2. In accounts that contain only the investment adviser's clients' funds and securities, under the investment adviser's name as agent or trustee for the clients, or, in the case of a pooled investment vehicle that the investment adviser manages, in the name of the pooled investment vehicle.

(c) Notice to Clients. If an investment adviser opens an account with a qualified custodian on its client's behalf, under the client's name, under the name of the investment adviser as agent, or under the name of a pooled investment vehicle, the investment adviser must notify the client in writing of the qualified custodian's name, address, and the manner in which the funds or securities are maintained, promptly when the account is opened and following any changes to this information. If the investment adviser sends account statements to a client to which the investment adviser is required to provide this notice, the investment adviser must include in the notification provided to that client and in any subsequent account statement the investment adviser sends that client a statement urging the client to compare the account statements from the custodian with those from the investment adviser.

(d) Account Statements. The investment adviser has a reasonable basis, after due inquiry, for believing that the qualified custodian sends an account statement, at least quarterly, to each client for which it maintains funds or securities, identifying the amount of funds and of each security in the account at the end of the period and setting forth all transactions in the account during that period.

(e) Special Rule For Limited Partnerships And Limited Liability Companies. If the investment adviser or a related person is a general partner of a limited partnership (or managing member of a limited liability company, or holds a comparable position for another type of pooled investment vehicle), the account statements required under paragraph (1)(d) of this Rule must be sent to each limited partner (member or other beneficial owner of such pooled investment vehicle).

(f) Independent Verification (Surprise Examination).The client funds and securities of which the investment adviser has custody are verified by actual examination at least once during each calendar year, by an independent certified public accountant, pursuant to a written agreement between the investment adviser and the independent certified public accountant, at a time that is chosen by the independent certified public accountant without prior notice or announcement to the investment adviser and that is irregular from year to year. The written agreement must provide for the first examination to occur within six months of becoming subject to this paragraph, except that, if the investment adviser maintains client funds or securities pursuant to this Rule as a qualified custodian, the agreement must provide for the first examination to occur no later than six months after obtaining the internal control report. The written agreement must require the independent certified public accountant to:

1. File a certificate on Form ADV-E with the Commissioner within 60 days of the time chosen by the independent certified public accountant in subsection (1)(f) of this Rule, stating that it has examined the funds and securities and describing the nature and extent of the examination;

2. Upon finding any material discrepancies during the course of the examination, notify the Commissioner within one (1) business day of the finding, by means of a facsimile transmission or electronic mail, followed by first class mail, directed to the attention of the Commissioner; and

3. Upon resignation or dismissal from, or other termination of, the engagement, or upon removing itself or being removed from consideration for being reappointed, file within four (4) business days Form ADV-E accompanied by a statement that includes:

   (i) The date of such resignation, dismissal, removal, or other termination, and the name, address, and contact information of the independent certified public accountant; and

   (ii) An explanation of any problems relating to examination scope or procedure that contributed to such resignation, dismissal, removal, or other termination.

(g) Investment Advisers Acting As Qualified Custodians. If the investment adviser maintains, or if the investment adviser has custody because a related person maintains, client funds or securities pursuant to this Rule as a qualified custodian in connection with advisory services the investment adviser provides to clients:

1. The independent certified public accountant the investment adviser retains to perform the independent verification required by subsection (1)(f) of this Rule must be registered with, and subject to regular inspection as of the commencement of the professional engagement period, and as of each

calendar year-end, by the Public Company Accounting Oversight Board in accordance with its rules; and

2. The investment adviser must obtain, or receive from its related person, within six months of becoming subject to this paragraph and thereafter no less frequently than once each calendar year a written internal control report prepared by an independent certified public accountant:

   (i) The internal control report must include an opinion of an independent certified public accountant as to whether controls have been placed in operation as of a specific date, and are suitably designed and are operating effectively to meet control objectives relating to custodial services, including the safeguarding of funds and securities held by either the investment adviser or a related person on behalf of the investment advisers clients, during the year;

   (ii) The independent certified public accountant must verify that the funds and securities are reconciled to a custodian other than the investment adviser or the investment advisers related person; and

   (iii) The independent certified public accountant must be registered with, and subject to regular inspection as of the commencement of the professional engagement period, and as of each calendar year-end, by, the Public Company Accounting Oversight Board in accordance with its rules.

(h) Independent Representatives. A client may designate an independent representative to receive, on his behalf, notices and account statements as required under paragraphs (1)(c) and (1)(d) of this rule.

(2) Exceptions.

(a) Shares Of Mutual Funds. With respect to shares of an open-end company as defined in Section 5(a)(1) of the Investment Company Act of 1940 ("mutual fund"), the investment adviser may use the mutual fund's transfer agent in lieu of a qualified custodian for purposes of complying with subsection (1) of this Rule;

(b) Certain Privately Offered Securities.

1. The investment adviser is not required to comply with subsection (1)(b) of this Rule with respect to securities that are:

   (i) Acquired from the issuer in a transaction or chain of transactions not involving any public offering;

(ii) Un-certificated and ownership thereof is recorded only on the books of the issuer or its transfer agent in the name of the client; and

(iii) Transferable only with prior consent of the issuer or holders of the outstanding securities of the issuer.

2. Notwithstanding subsection (2)(b)1. of this Rule, the provisions of subsection (2)(b) are available with respect to securities held for the account of a limited partnership (or limited liability company, or other type of pooled investment vehicle) only if the limited partnership is audited, and the audited financial statements are distributed, as described in subsection (2)(d) of this Rule and the investment adviser notifies the Commissioner in writing that the investment adviser intends to provide audited financial statements, as described above. Such notification is required to be provided on Form ADV.

(c) Fee Deduction. An investment adviser is not required to comply with subsection (1)(f) of this Rule if all of the following are met:

1. The investment adviser has custody of the funds and securities solely as a consequence of its authority to make withdrawals from client accounts to pay its advisory fee;

2. The investment adviser has written authorization from the client to deduct advisory fees from the account held with the qualified custodian; and

3. The investment adviser notifies the Commissioner in writing that the investment adviser intends to use the safeguards provided above. Such notification is required to be given on Form ADV.

(d) Limited Partnerships Subject To Annual Audit. An investment adviser is not required to comply with subsections (1)(c) and (1)(d) and shall be deemed to have complied with subsection (1)(f) of this Rule with respect to the account of a limited partnership (or limited liability company, or another type of pooled investment vehicle) that is subject to audit (as defined in rule 1-02(d) of Regulation S-X (17 CFR 210.1- 02(d))):

1. At least annually and distributes its audited financial statements prepared in accordance with generally accepted accounting principles to all limited partners (or members or other beneficial owners) within 120 days of the end of its fiscal year;

2. By an independent public accountant that is registered with, and subject to regular inspection as of the commencement of the professional engagement

period, and as of each calendar year-end, by, the Public Company Accounting Oversight Board in accordance with its rules; and

3. Upon liquidation and distributes its audited financial statements prepared in accordance with generally accepted accounting principles to all limited partners (or members or other beneficial owners) promptly after the completion of such audit.

4. The written agreement with the independent certified public accountant must require the independent certified public accountant to, upon resignation or dismissal from, or other termination of, the engagement, or upon removing itself or being removed from consideration for being reappointed, notify the Commissioner within four (4) business days accompanied by a statement that includes:

   (i) The date of such resignation, dismissal, removal, or other termination, and the name, address, and contact information of the independent certified public accountant; and

   (ii) An explanation of any problems relating to audit scope or procedure that contributed to such resignation, dismissal, removal, or other termination.

5. The investment adviser must also notify the Commissioner in writing that the investment adviser intends to employ the use of the audit safeguards described above. Such notification is required to be given on Form ADV.

(e) Registered Investment Companies. The investment adviser is not required to comply with this Rule with respect to the account of an investment company registered under the Investment Company Act of 1940.

(3) Delivery to Related Persons. Sending an account statement under subsection (1)(e) of this Rule or distributing audited financial statements under subsection (2)(d) of this Rule shall not satisfy the requirements of this Rule if such account statements or financial statements are sent solely to limited partners (or members or other beneficial owners) that themselves are limited partnerships (or limited liability companies, or another type of pooled investment vehicle) and are your related persons.

(4) Definitions. For purposes of the rule:

(a) "Control" means the power, directly or indirectly, to direct the management or policies of a person whether through ownership of securities, by contract, or otherwise. Control includes:

1. Each of the investment adviser's officers, partners, or directors exercising executive responsibility (or persons having similar status or functions) is presumed to control the investment adviser;

2. A person is presumed to control a corporation if the person:

   (i) Directly or indirectly has the right to vote 25 percent or more of a class of the corporation's voting securities; or

   (ii) Has the power to sell or direct the sale of 25 percent or more of a class of the corporation's voting securities;

3. A person is presumed to control a partnership if the person has the right to receive upon dissolution, or has contributed, 25 percent or more of the capital of the partnership;

4. A person is presumed to control a limited liability company if the person:

   (i) Directly or indirectly has the right to vote 25 percent or more of a class of the interests of the limited liability company;

   (ii) Has the right to receive upon dissolution, or has contributed, 25 percent or more of the capital of the limited liability company; or

   (iii) Is an elected manager of the limited liability company.

5. A person is presumed to control a trust if the person is a trustee or managing agent of the trust.

(b) "Custody" means holding directly or indirectly, client funds or securities, or having any authority to obtain possession of them. The investment adviser has custody if a related person holds, directly or indirectly, client funds or securities, or has any authority to obtain possession of them, in connection with advisory services the investment adviser provides to clients.

1. Custody includes:

   (i) Possession of client funds or securities unless the investment adviser receives them inadvertently and returns them to the sender promptly but in any case within three business days of receiving them;

   (ii) Any arrangement (including general partner or attorney) under which the investment adviser is authorized or permitted to withdraw client funds or securities maintained with a custodian upon the investment adviser's instruction to the custodian; and

(iii) Any capacity (such as general partner of a limited partnership, managing member of a limited liability company or a comparable position for another type of pooled investment vehicle, or trustee of a trust) that gives the investment adviser or its supervised person legal ownership of or access to client funds or securities.

2. Receipt of checks drawn by clients and made payable to third parties will not meet the definition of custody if forwarded to the third party within three (3) business days of receipt and the investment adviser maintains the records required under Rule 590-4-4-.14;

(c) "Independent certified public accountant" means a certified public accountant that meets the standards of independence described in Rule 2-01(b) and (c) of Regulation S-X (17 CFR 210.2-01(b) and (c)).

(d) "Independent representative" means a person who:

1. Acts as agent for an advisory client, including in the case of a pooled investment vehicle, for limited partners or a limited partnership, members of a limited liability company, or other beneficial owners of another type of pooled investment vehicle and by law or contract is obliged to act in the best interest of the advisory client or the limited partners, members, or other beneficial owners;

2. Does not control, is not controlled by, and is not under common control with investment adviser; and

3. Does not have, and has not had within the past two years, a material business relationship with the investment adviser.

(e) "Qualified custodian" means the following:

1. A bank or savings association that has deposits insured by the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act;

2. A broker-dealer registered in this jurisdiction and with the SEC holding the client assets in customer accounts;

3. A registered futures commission merchant registered under Section 4f(a) of the Commodity Exchange Act, holding the client assets in customer accounts, but only with respect to clients' funds and security futures, or other securities incidental to transactions in contracts for the purchase or sale of a commodity for future delivery and options thereon; and

4. A foreign financial institution that customarily holds financial assets for its customers, provided that the foreign financial institution keeps the advisory clients' assets in customer accounts segregated from its proprietary assets.

(f) "Related person" means any person, directly or indirectly, controlling or controlled by the investment adviser, and any person that is under common control with the investment adviser.

Cite as Ga. Comp. R. & Regs. R. 590-4-4-.20
Authority: O.C.G.A. Sec. 10-5-51.
History. Original Rule entitled "Custody Requirements for Investment Advisers" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Subject 590-4-5. BROKER-DEALERS AND AGENTS.

Rule 590-4-5-.01. Application Requirements.

(1) Broker-dealer application requirements. A complete application for broker-dealer registration consists of the following and must be filed in paper form with the Commissioner unless as otherwise required pursuant to subsection (4) of this Rule:

(a) A Uniform Application for Broker-Dealer Registration (Form BD) for the broker-dealer applicant;

(b) A Uniform Application for Securities Industry Registration or Transfer (Form U-4) for the designated officer of the applicant and a Form U-4 for each agent of the applicant to be registered (officers of a corporation, members of a limited liability company, or partners of a partnership shall not be deemed agents solely because of their status as officers, members, or partners);

(c) A copy of the applicant's articles of incorporation, articles of organization, partnership agreement, articles of association, trust agreement, or other documents which indicate the form of organization, certified by the appropriate jurisdiction or by an officer or partner of the applicant;

(d) A balance sheet prepared in accordance with generally accepted accounting practices reflecting the financial condition of the applicant as of a date not more than ninety (90) days prior to the date of such filing. The balance sheet should be prepared by independent certified public accountants or independent public accountants, or must instead be attested by the sworn notarized statement of the applicant's principal financial officer. If attested by the principal financial officer of the applicant, such officer shall certify as follows: "I am the principal financial officer of (name of dealer). The accompanying balance sheet has been prepared

under my direction and control and presents fairly its financial position on the dates indicated to the best of my knowledge, belief, and ability. (Signature and Title)."

(e) Any other information deemed necessary by the Commissioner to determine a broker-dealer's financial responsibility or a broker-dealer's or agent's business repute or qualifications; and

(f) The appropriate registration fee(s).

(2) Designated officer registration. Broker-dealers must file a Form U-4 application to register an officer or partner in connection with the registration of the broker-dealer. The officer or partner must be a control person of the broker-dealer as defined by federal law, rule, or regulation. The officer or partner must complete the necessary registration and examination requirements. An applicant may designate as its officer or partner a control person registered in Georgia via the Central Registration Depository ("CRD") System maintained by FINRA. If the officer or partner resigns or is otherwise removed from his or her position, the firm shall make an application to register another officer or partner within thirty (30) days of the effective date of said resignation or removal.

(3) Branch office registration and inspection. A request for registration of a branch office of a broker-dealer may be made upon initial application of the broker-dealer or by amendment to a current registration. No sales-related activity may occur in any branch office location until such time as the broker-dealer receives notification from the Commissioner that such location has been approved as a branch office. The request for registration of a branch office may be made by the submission of Uniform Branch Office Registration Form (Form BR) through CRD for FINRA member firms. For non-FINRA member firms, the request is made by submitting Form BR in paper form to the Commissioner. The fee for registration of each branch office is $25.00. Simultaneous with the request for registration of a branch office, a supervisor must be designated. A supervisor is not required to be registered as a FINRA principal, but must be registered in Georgia as an agent and is responsible for supervision of the activities of the branch office. A supervisor may not supervise sales activities encompassing a broader range of products than those covered by the supervisor's qualification examination(s). Within ten (10) business days from when a supervisor ceases to be employed or registered in such capacity by the broker-dealer, a new supervisor, qualified by passage of the appropriate examinations, must be designated. Absent the designation of a new supervisor to the Commissioner within the ten (10) business day period, the registration of a branch office whose supervisor ceases to be employed as such by a broker-dealer may be automatically terminated by the Commissioner. The branch office registration may be reinstated by the Commissioner upon the designation of a qualified supervisor and payment of the branch office registration fee. Each branch office registered with the Commissioner is subject to unannounced inspections at any time during normal business hours.

(4) Central Registration Depository System (CRD).

(a) Whenever the Act or rules require the filing of an application with the Commissioner for broker-dealer or agent registration, members of FINRA or applicants for membership in FINRA shall make such filing electronically through the CRD which is jointly operated by FINRA and the NASAA. Applicants shall use the applicable uniform form for the submission of the filing in question and shall supplement their electronic filing by filing, in paper form, the items listed in subsections(1)(c) -(1)(f) of this Rule, directly with the Commissioner.

(b) Uniform forms submitted through the CRD that designate Georgia as a jurisdiction in which the filing is to be made are deemed to be filed with the Commissioner and constitute official records of the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 590-4-5-.01
Authority: O.C.G.A. Secs. 10-5-9, 10-5-10, 10-5-35, 10-5-70, 10-5-74.
History. Original Rule entitled "Uniform Limited Offering Exemption" adopted. F. Aug. 16, 1982; eff. Nov. 1, 1982, as specified by the Agency.
Amended: F. Jan. 16, 1984; eff. Feb. 5, 1984.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Amended: F. Dec. 13, 1990; eff. Jan. 2, 1991.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Application Requirements" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-5-.02. Examination.

(1) Broker-dealer. Unless specifically exempt as hereinafter provided, before a broker-dealer applicant will be considered eligible for registration, the broker-dealer examinations in the form and content prescribed or approved by the Commissioner must be passed, to the extent required by this Rule, by every principal as defined by federal law, rule, or regulation of a broker-dealer in order to test the principal's knowledge of the securities business, state and federal securities laws, and the responsibilities of a supervisor in the securities business.

(2) Examinations accepted. The Commissioner recognizes the following general examinations administered by FINRA, and an applicant applying to be registered as a broker-dealer shall provide proof to the Commissioner that its principals have passed:

(a) The Series 63 Uniform Securities Agent State Law Examination; and

(b) One of the following examinations:

1. Series 4 Registered Options Principal Examination;

2. Series 12 Branch Managers Examination;

3. Series 23 General Securities Principal Qualification Examination Sales Supervisor Module;

4. Series 24 General Principal Examination;

5. Series 26 Investment Company Products/Variable Contracts Principal Examination;

6. Series 27 Financial and Operations Principal Examination;

7. Series 39 Direct Participation Programs Principal Examination; or

8. Series 53 Municipal Securities Principal Examination.

(c) The Commissioner shall establish or approve the standards for a minimum acceptable grade in determining each applicant's qualification for registration under this provision.

(d) Upon failure to receive a minimum passing grade, the principal of the broker-dealer applicant may retake the examination on the next date available. A second failure or failure to take or retake the examination within a thirty (30)-day period from the date the broker-dealer application was filed, shall be grounds for denial of the broker-dealer application and an order to that effect may be entered by the Commissioner. The broker-dealer applicant shall be considered ineligible for licensing during a period of three (3) months from the date of denial of the broker-dealer application by the Commissioner, at which time a new broker-dealer application may be filed and its eligibility reexamined. The original filing fee shall not be refunded nor applied to a subsequent application for registration under this provision. However, the broker-dealer application shall not be denied if:

1. The broker-dealer applicant is qualified;

2. The broker-dealer applicant meets the requirements of subsection (2)(e); and

3. The principal of that applicant who fails the examination qualifies for an exemption under subsection (2)(g).

(e) The following are the examination requirements for principals of a broker-dealer:

1. In the case of a partnership, a corporation, or another association, including, but not limited to a limited liability company, at least two (2) partners, officers, directors, or persons or members occupying a similar position must satisfy the examination requirement.

2. If the broker-dealer maintains no branch offices and employs no more than ten (10) agents who have contact with the public, only one (1) of those persons must satisfy the examination requirement.

(f) An application shall be deemed incomplete until there is a showing of compliance with the examination requirements or an exemption from those requirements.

(g) The examination requirements may be waived by a proper showing or certification that the principal, prior to the broker-dealer making application with the Commissioner, has:

1. Taken an examination in the form and content approved by the Commissioner within the preceding two (2) years, and passed the examination with the minimum acceptable passing grade for broker-dealer applicants; or

2. Taken an examination in the form and content prescribed or approved by the Commissioner, attained an acceptable passing grade, and thereafter, remained continuously in the securities business, duly licensed by another state.

(3) Broker-dealer agent. The Commissioner recognizes the following general examinations, and an applicant applying to be registered as an agent shall provide proof to the Commissioner that the applicant has passed within the two-year period immediately preceding the date of the application, except in regards to the Securities Industry Essentials (SIE) Exam which the applicant shall take and pass within the four-year period immediately preceding the date of the application:

(a) The Series 63 Uniform Securities Agent State Law Examination administered by FINRA; and

(b) One of the following securities examinations or combination of examinations:

1. FINRA Series 1 Registered Representative Examination;

2. FINRA Series 2 Non-Member General Securities Examination;

3. FINRA Series 6/S6TO Investment Company Products/Variable Contracts Representative Examination and the Securities Industry Essentials (SIE) Exam;

4. FINRA Series 7/S7TO General Securities Representative Examination and the Securities Industry Essentials (SIE) Exam;

5. FINRA Series 22/S22TO Direct Participation Programs Representative Examination and the Securities Industry Essentials (SIE) Exam;

6. FINRA Series 52/S52TO Municipal Securities Representative Examination and the Securities Industry Essentials (SIE) Exam;

7. NASAA Real Estate Securities Examination; or

8. FINRA Series 79/S79TO Investment Banking Representative Examination and the Securities Industry Essentials (SIE) Exam.

(c) The examination requirements may be waived by a proper showing or certification that the agent, prior to the agent making application with the Commissioner, has:

1. Taken an examination in the form and content approved by the Commissioner within the preceding two (2) years, and passed the examination with the minimum acceptable passing grade for agent applicants; or

2. Taken an examination in the form and content prescribed or approved by the Commissioner, attained an acceptable passing grade, and thereafter, remained continuously in the securities business, duly licensed by another state.

(4) An applicant who wishes to rely upon his or her passing any examination other than those enumerated in Paragraphs (2) or (3) above or who wishes to request a waiver of the examination requirements of this Rule must submit a written request for consideration identifying the examination in question, its content, and the agency administering the examination, or the reason why a waiver should be granted by the Commissioner. The Commissioner may decide whether to accept such examination results or to grant a waiver of the examination requirements.

(5) Any person whose most recent registration as a broker-dealer or agent has been terminated for two (2) or more years immediately preceding application to the Commissioner for registration shall be required to pass the Series 63 Uniform Securities Agent State Law Examination administered by FINRA and any other examination required by the Commissioner pursuant to this Rule. The Commissioner may find the applicant qualified by other examinations or significant and comprehensive experience or expertise in the securities business.

(6) The Commissioner may cooperate with registered securities associations and national securities exchanges in devising and administering tests, and require that applicants pay such association or reasonable exchange fees or charges to defray the costs incurred by such association or exchange in administering the tests.

Cite as Ga. Comp. R. & Regs. R. 590-4-5-.02
Authority: O.C.G.A. §§ 10-5-30, 10-5-31, 10-5-35, 10-5-41, 10-5-74.
History. Original Rule entitled "SEC Coordinated Filing Exemption" adopted. F. Jan. 16, 1984; eff. Feb. 5, 1984.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Examination" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.
Amended: F. Apr. 18, 2019; eff. May 8, 2019.

Rule 590-4-5-.03. Termination or Withdrawal of Registration.

(1) If the Commissioner determines that a registrant or applicant for registration is no longer in existence, has ceased to act as a broker-dealer or agent, is the subject of an adjudication of incapacity, is subject to the control of a committee, conservator or guardian, or cannot reasonably be located, the Commissioner may issue an order that requires the registration to be canceled or terminated or the application to be denied or may cancel or terminate the registration or applicant's status on the CRD. The Commissioner may reinstate a canceled or terminated registration, with or without a hearing, and may make the registration retroactive.

(2) The entry of such an order by the Commissioner shall constitute a final order, shall be deemed to be in the public interest and shall not be deemed to constitute findings of fact or conclusions of law related to other persons. The entry of such an order shall not be deemed to be a waiver or estoppel on the part of the Commissioner from proceeding in individual actions against any persons who may have violated the Act, nor shall such an order prevent the Commissioner from bringing individual actions against any persons who have violated the Act or Rules, if such violation was not known to the Commissioner at the time the order was issued.

(3) No broker-dealer or issuer shall employ any agent who is not registered as required by the Act, and each such broker-dealer or issuer shall promptly notify the Commissioner of its termination of such agent's employment. The registration of such agent shall automatically be terminated from the time of termination of employment. Said notification may be accomplished by filing the necessary documents with the CRD. If the agent is not registered with the CRD, notification shall be accomplished by filing a Uniform Termination Notice for Securities Industry Registration (U-5 Form) with the Commissioner. As used herein, the word "promptly" means that the U-5 Form should be filed as soon as possible, consistent with the time period specified in the CRD filing procedures.

(4) To withdraw a broker-dealer registration, a broker-dealer that is a FINRA member must submit a Form BDW (Uniform Request for Broker-Dealer Withdrawal) to the CRD. Non-FINRA member broker-dealers must submit Form BDW to the Commissioner's office.

(5) Effective Date. Every notice of withdrawal filed pursuant to this Rule shall become effective sixty (60) days after the filing with CRD, or within such shorter period of time as the Commissioner may determine. If, prior to the effective date of any notice of

withdrawal, the Commissioner has instituted a proceeding to suspend or revoke registration or to impose terms or conditions upon withdrawal pursuant to Section 10-5-41 of the Act, the notice of withdrawal shall not become effective except at such time, and upon such terms and conditions, as the Commissioner deems necessary or appropriate considering the public interest or the protection of investors.

Cite as Ga. Comp. R. & Regs. R. 590-4-5-.03
Authority: O.C.G.A. Secs. 10-5-9, 10-5-10, 10-5-37, 10-5-38, 10-5-70, 10-5-74.
History. Original Rule entitled "Limited Compensatory Benefit Plan Exemption" adopted. F. Dec. 13, 1990; eff. Jan. 2, 1991.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Termination or Withdrawal of Registration" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-5-.04. Incomplete and Abandoned Applications.

(1) An application for registration as a broker-dealer or agent pursuant to the Act is considered filed when the Commissioner receives the application and required filing fees.

(2) Any application for registration as a broker-dealer or agent is deficient if any of the following conditions exist:

(a) The application is not in proper form;

(b) The application is not in compliance with any provision of the Act; or

(c) The application is not in compliance with any other state or federal law, statute, rule or regulation.

(3) When an application is found to be deficient, the Commissioner may send a deficiency letter to the applicant stating the grounds of deficiency and, if the applicant is an agent, to the broker-dealer or issuer who employs or proposes to employ such applicant. Any application for registration as a broker-dealer or agent shall be deemed to be abandoned by the applicant if the Commissioner receives no communication from the applicant for a period of sixty (60) days. Upon declaring that the application is abandoned, the Commissioner may unilaterally and without further notice to the applicant dismiss the application and change the status of the application on the CRD to "abandoned."

Cite as Ga. Comp. R. & Regs. R. 590-4-5-.04
Authority: O.C.G.A. Secs. 10-5-5, 10-5-10, 10-5-35, 10-5-70, 10-5-74.
History. Original Rule entitled "SEC Rule 506 Exemption" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Incomplete and Abandoned Applications" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-5-.05. Plan Administrators - Exclusion from Broker-Dealer Definitions.

Entities that administer the types of plans described in Section 10-5-11(21) of the Act on behalf of the entities described in Section 10-5-11(21) of the Act are excluded from the broker-dealer definition of Section 10-5-2(3) of the Act, unless they meet such definition by virtue of other activities or characteristics not strictly related to the administration of such plans.

Cite as Ga. Comp. R. & Regs. R. 590-4-5-.05
Authority: O.C.G.A. Secs. 10-5-2, 10-5-70, 10-5-74.
History. Original Rule entitled "Plan Administrators - Exclusion from Broker - Dealer Definitions" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-5-.06. Books and Records.

(1) All broker-dealers and agents who are registered or required to be registered with the SEC or are members of FINRA or any national securities exchange registered with the SEC shall make, keep and preserve such records as the SEC, FINRA, and national securities exchanges registered with the SEC require be made, kept, and preserved. These records shall be subject to inspection by the Commissioner. The records of a broker-dealer and agent registered or required to be registered under the Act are subject to such reasonable periodic or special inspections by a representative of the Commissioner as the Commissioner considers necessary or appropriate in the public interest and for the protection of investors. An inspection may be made at any time and without prior notice. The Commissioner may copy and remove any record the Commissioner reasonably considers necessary or appropriate to conduct the inspection. The fee for a routine examination of a broker-dealer shall be thirty-five (35) dollars per working hour with the total fee not to exceed $1,000.

(2) Broker-dealers that are not registered with the SEC or are not members of FINRA or of any national securities exchange registered with the SEC shall make and keep the following records:

   (a) Blotters (or other records of original entry) containing an itemized daily record of all purchases and sales of securities, all receipts and deliveries of securities (including certificate numbers), all receipts and disbursements of cash and all other debits and credits. These records shall show the account for which each such transaction was effected, the names and amount of securities, the unit and aggregate purchase or sale price (if any), the trade date and the names or other designation of the person(s) from whom, purchased or received or to whom sold or delivered.

   (b) Ledgers (or other records) reflecting all assets and liabilities, income and expenses and capital accounts.

(c) Ledger accounts (or other records) itemizing separately, as to each cash and margin account of every customer and of such broker-dealer and partners thereof, all purchases, sales, receipts, and deliveries of securities for such account and all other debits and credits to such account.

(d) Ledgers (or other records) reflecting the following:

1. Securities in transfer;

2. Dividends and interest received;

3. Securities borrowed and securities loaned;

4. Money borrowed and money loaned (together with a record of the collateral therefore and any substitutions in such collateral); and

5. Securities failed to receive and failed to deliver.

(e) A securities record or ledger reflecting separately for each security, as of the clearance dates, all "long" or "short" positions (including securities in safekeeping) carried by such broker-dealer for its account or for the account of its customers or partners showing the location of all securities "long" and the offsetting position to all securities "short" and, in all cases, the name or designation of the account in which each position is carried.

(f) A memorandum of each brokerage order and of any other instruction given or received for the purchase or sale of securities whether executed or unexecuted. This memorandum shall show the terms and conditions of the order or instruction and of any modification or cancellation thereof, the account for which the order or instruction was entered, the time of entry, the price at which the order or instruction was executed and, to the extent feasible, the time of execution or cancellation and whether the order was solicited or unsolicited. Orders entered pursuant to the exercise of discretionary power by such broker-dealer, or any associated person thereof, shall be so designated. The term "instruction" shall be deemed to include instructions between partners and associated persons of a broker-dealer. The term "time of entry" shall be deemed to mean the time when such broker-dealer transmits the order or instruction for execution, or, if it is not so transmitted, the time when it was received.

(g) A memorandum of each purchase or sale of securities for the account of such broker-dealer showing the price and, to the extent feasible, the time of execution; and, in addition, where such purchase or sale is with a customer other than a broker or dealer, a memorandum of each order received, showing the time of receipt, the terms and conditions of the order, and the account in which it was entered.

(h) Copies of confirmations of all purchases and sales of securities and copies of notices of all other debits and credits for securities, cash and other items for the accounts of customers and partners of such broker-dealer.

(i) A record in respect of each cash and margin account with such broker-dealer containing the name and address of the beneficial owner of such account and, in the case of a margin account, the signature of such owner; provided, however, that in the case of a joint account or an account of a corporation, limited liability company or partnership, such records are required only in respect of the person or persons authorized to transact business for such account.

(j) A record of all puts, calls, spreads, straddles and other options that such broker-dealer has granted or guaranteed containing, at least, an identification of the security and the number of units involved.

(k) A record of the proof of money balances of all ledger accounts in the form of trial balances. These trial balances shall be prepared currently at least once a month.

(l) An application for employment executed by each "associated person" (as hereinafter defined) of such broker-dealer that is approved in writing by an authorized representative of such broker-dealer and contains at least the following information with respect to such associated person:

1. Name, address, social security number and the starting date of employment or other association with the broker-dealer;

2. Date of birth;

3. The educational institutions attended and whether the associated person graduated therefrom;

4. A complete, consecutively ordered statement of all business connections for at least the preceding seven (7) years, including reason(s) for leaving each prior employment and whether the employment was part-time or full-time;

5. A record of any denial of membership or registration and of any disciplinary action taken or sanction imposed upon him or her by any Federal or State agency or any national securities exchange or national securities association, including any finding that he or she was a cause of any disciplinary action or had violated any law;

6. A record of any denial, suspension, expulsion or revocation of membership in any national securities association, securities exchange or registration with any state, federal or governmental agency with which he or she was associated in any capacity when such action was taken;

7. A record of any permanent or temporary injunction entered against him or her or any member of a national securities association or stock exchange or broker or dealer with which he or she was associated in any capacity at the time such injunction was entered;

8. A record of any arrests, indictments or convictions for any felony or any misdemeanor, except minor traffic offenses, of which he or she has been the subject;

9. A record of any other name or names by which he or she has been known or has used; and

10. A record of all licenses, registrations and memberships related to securities that he or she holds.

11. For purposes of Subsection (2)(l) of this Rule, the term "associated person" shall mean a partner, officer, director, agent, trader, manager, any employee or any independent contractor handling funds or securities or soliciting transactions or accounts for such broker-dealer.

(3) Broker-dealers not registered with the SEC or not members of FINRA or of any national securities exchange registered with the SEC shall preserve for a period of not less than five (5) years, the first two (2) years in an easily accessible place, the records required to be maintained by Sections (1) or (2) above and the following:

(a) All checkbooks, bank statements, cancelled checks and cash reconciliations relating to the business of the broker-dealer;

(b) All invoices (or copies thereof) received by the broker-dealer from any other person relating to the business of the broker-dealer, whether the broker-dealer paid the invoice or the invoice is still payable, and, where the broker-dealer has paid the invoice, all records of the payment made;

(c) All invoices (or copies thereof) sent by the broker-dealer to any other person relating to the business of the broker-dealer, whether the broker-dealer has received any payment from the other person or any part of the invoice is still receivable, and, where the broker-dealer has received a payment, either in full or in part, on the invoice, all records of the payment received;

(d) Originals (maintained in paper or electronic media storage) of all communications received and copies of all written and electronic communications sent by such broker-dealer (including interoffice memoranda and communications) relating to the business of the broker-dealer;

(e) All trial balances, financial statements, branch office reconciliations and internal audit working papers, relating to the business of the broker-dealer;

(f) All guarantees of accounts and all powers of attorney and other evidence of the granting of any discretionary authority given in respect of any accounts, and copies of resolutions empowering an agent to act on behalf of a corporation, limited liability company, partnership or other third parties; and

(g) All written agreements (or copies thereof) entered into by such broker-dealer relating to its business, including agreements with respect to any account.

(4) Broker-dealers not registered with the SEC or not members of FINRA or of any national securities exchange registered with the SEC that buy and sell securities or hold securities for the account of customers shall preserve for a period of not less than five (5) years after the closing of any customer's account, for the first (2) two years in an easily accessible place, all account cards, records or other documents that relate to the opening and maintenance of any customer's account, including all records and documents relating to the terms and conditions of such account (in paper or electronic media storage).

(5) Broker-dealers not registered with the SEC or not members of FINRA or of any national securities exchange registered with the SEC that buy and sell securities or hold securities for the account of customers shall maintain and preserve all records with respect to "associated persons" required by Subsection (2)(l) above and all similar records required to be kept by other agencies for a period of at least five (5) years after the employment of the "associated person" has terminated and he or she has no other connection with the broker-dealer.

(6) Broker-dealers not registered with the SEC or members of FINRA or of any national securities exchange registered with the SEC that do not hold securities for the account of customers and whose securities transactions are limited to selling securities shall make and maintain the following records:

(a) With respect to every sale of securities made by such broker-dealers, the following records shall be made and maintained for five (5) years, for the first two (2) years in an easily accessible place:

1. A description of the types and amounts of securities sold;

2. The date of the sale;

3. The sales price and how such price was determined;

4. The commission earned and received for such sale by the broker-dealer and any agent;

5. The name and address of:

(i) The person to whom the security(ies) was (were) sold;

(ii) The agent who made the sale; and

(iii) The issuer or other person on whose behalf the sale was made;

(b) Originals of all communications received and copies of all communications sent by such broker-dealer (including interoffice memoranda and communications) relating to the sale of securities; and

(c) For each agent employed, a copy of the agent's application to the Commissioner for registration as an agent and all orders, notices or correspondence received by the broker-dealer with respect to such agent's registration.

(7) Every broker-dealer shall preserve, during the life of the enterprise and of any successor enterprise, all partnership articles or, in the case of a corporation or limited liability company, all articles of incorporation or charter, minute books and stock certificate books or similar documents.

(8) Agents who are not subject to the record keeping requirements of the SEC, FINRA or any national securities exchange registered with the SEC shall make and maintain for five (5) years, for the first (2) two years in an easily accessible place, a record of all commissions, overrides, draws, salary, expenses and other compensation or remuneration received in connection with his or her securities sales efforts and the following records with respect to every sale of securities in which such agent participates in any way:

(a) A description of the type and amount of securities sold;

(b) The date of the sale;

(c) The sales price and how such price was determined;

(d) The commission earned and received for such sale;

(e) A copy of any sales confirmation, subscription agreement and other contract relating to the sale;

(f) The name and address of the purchaser; and

(g) The name and address of any person in addition to the agent who participated in the sale, a description of the nature of the participation and the compensation or remuneration received by such other person for his or her assistance.

(9) Any record required by this Rule to be preserved and maintained may, after it is no longer required to be kept in an easily accessible place, be maintained in any form admissible

into evidence pursuant to Code Section 24-5-26. Such records may be thus maintained at any time if equipment for viewing and reproducing such records is immediately accessible and any cost of such viewing or reproduction will be borne by the broker-dealer or agent.

(10) Any broker-dealer that is registered with the SEC, is a member of FINRA or is a member of any national securities exchange registered with the SEC that fulfills the reporting requirements of the SEC, FINRA or national securities exchange, as it is required, shall be deemed to be in compliance with reporting requirements of the Act and the Rules.

Cite as Ga. Comp. R. & Regs. R. 590-4-5-.06
Authority: O.C.G.A. Secs. 10-5-40, 10-5-70, 10-5-74.
History. Original Rule entitled "Books and Records" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-5-.07. Reports.

(1) For every broker-dealer registered under the Act, the following are the requirements for filing reports:

(a) Every broker-dealer subject to this Rule shall prepare and submit to the Commissioner, upon request, reports of financial condition containing the information required:

1. As of a date within sixty (60) days of the date of filing an application for a license as a broker-dealer; and

2. Annually, as of the close of the broker-dealer fiscal year.

(b) The annual reports shall be prepared not more than sixty (60) days after the date as of which the firm's financial condition is reported. If the applicant or licensee is registered with the SEC as a broker-dealer, the reports of financial condition as filed with the SEC shall be deemed to be in compliance herewith.

(2) Each report of financial condition prepared under Subsection (1) shall be prepared in accordance with the following requirements:

(a) The report of a broker-dealer shall be certified by a certified public accountant or a public accountant who shall be independent, except a report prepared under Subsection (1)(b) that is not required to be certified under the rules of the SEC or the Public Company Accounting Oversight Board.

(b) Attached to the report shall be an oath or affirmation. This oath of affirmation shall demonstrate that, to the best knowledge and belief of the person making the oath or affirmation, the financial statement and supporting schedules are true and

correct. This oath or affirmation shall be made before a person duly authorized to administer the oaths or affirmations.

(c) If the broker-dealer is a:

1. Sole proprietorship, the oath or affirmation shall be made by the proprietor;

2. Partnership, it shall be made by a general partner; or

3. Corporation or limited liability company, it shall be made by a duly authorized officer or member.

(d) If statements of financial condition furnished pursuant to the requirements of broker-dealer reports are bound separately from the balance of the report and are deemed confidential under the Securities Exchange Act of 1934, they shall be deemed confidential, except that they shall be available for official use by any official or employee of the United States or any state, national securities exchanges and national securities associations of which the person preparing the report is a member, and any other person to whom the Commissioner authorizes disclosure of the information as being in the public interest.

(3) The requirements for the use of certain statements filed with the SEC and national securities exchanges are as follows:

(a) Any broker-dealer who is subject to the provisions of Subsection (1) may prepare, in lieu of the report required by that Subsection, a copy of any financial statements that it is, or has been, required to file with FINRA or any national securities exchange of which it is a member, provided that the financial statements reflect the financial condition as of a date not more than sixty (60) days prior to the date required in Subsection (1) by the Commissioner and the report, as filed with the Commissioner, meets the requirements of this Rule and contains the information called for by it.

(b) At the request of any broker-dealer who is an investment company registered under the Investment Company Act of 1940, or a sponsor or depositor of a registered investment company who effects transactions in securities only with, or on behalf of, the registered investment company, the Commissioner shall accept any statement of its financial condition filed pursuant to Sections 13 or 15(d) of the Securities Exchange Act of 1934 or Section 30 of the Investment Company Act of 1940 and the rules and regulations promulgated by the Commissioner.

(4) In the event any broker-dealer finds that it cannot prepare its report for any year within the time specified in Subsection (1) or (3) without undue hardship, it may file with the Commissioner an application for an extension of time to a specified date, which shall not be more than ninety (90) days after the date as of which its financial condition is reported.

The application shall state the reasons for the requested extension and contain an agreement to prepare the report on or before the specified date.

(5) The Commissioner may provide by order for the electronic filing of the reports required under this Rule.

Cite as Ga. Comp. R. & Regs. R. 590-4-5-.07
Authority: O.C.G.A. Secs. 10-5-40, 10-5-70, 10-5-74.
History. Original Rule entitled "Reports" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-5-.08. Bonds.

(1) Except as otherwise provided for in this Rule, no applicant or broker-dealer that has custody of, or discretionary authority over, funds or securities of a customer or client shall be registered or renewed as a broker-dealer under Article 4 of the Act until the applicant files a bond satisfactory to the Commissioner in the amount of $25,000.00.

(2) The bonding requirements of this Rule shall not be applicable if broker-dealer:

(a) Has a minimum net worth of not less than $250,000.00; or

(b) Is registered under Section 15(b) of the Securities Exchange Act of 1934, is a member of FINRA or a national securities exchange registered with the SEC, and is a member of the Securities Investors Protection Corporation or is specifically excluded from membership pursuant to the Securities Investors Protection Act of 1970, as amended, 15 U.S.C.A. § 78aa a, *et seq.*, because its business consists exclusively of one or more of the following categories:

1. The distribution of shares of registered open-end investment companies or unit investment trusts;

2. The sale of variable annuities;

3. The business of insurance; or

4. The business of rendering investment advisory services to one or more registered investment companies or insurance companies separate accounts.

(3) The Commissioner may, at any time, order a broker-dealer to provide additional proof of financial responsibility if the Commissioner determines that is necessary to adequately protect investors.

(4) The requirement for the filing of such bond by an applicant for registration or renewal as a broker-dealer or agent shall not be applicable if exempted or preempted by federal law.

Cite as Ga. Comp. R. & Regs. R. 590-4-5-.08
Authority: O.C.G.A. Secs. 10-5-40, 10-5-70, 10-5-74.
History. Original Rule entitled "Bonds" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-5-.09. Notice of Changes in Circumstances.

(1) Every broker-dealer or applicant shall promptly notify the Commissioner, in writing, of any material change in any information, exhibits or schedules disclosed in the application. A correction amendment shall be filed at the time of the occurrence or promptly after discovery of the change. Material changes include, but are not limited to, the following:

(a) Change in firm name, ownership, management, control or any of its partners, officers or persons in similar positions.

(b) Change in principal office address.

(c) Change in principal office or branch office managers, provided the offices are located in Georgia.

(d) Change in the type of entity or general plan of the broker-dealer business, method of operation or type of securities in which it is dealing or trading.

(e) Insolvency, either in the sense that liabilities exceed assets or in the sense that obligations cannot be met as they mature.

(f) Change with the net liquid capital or bond requirements, including dissolution, liquidation or noncompliance.

(g) Termination of business or discontinuance of activities as a broker-dealer.

(h) The broker-dealer or applicant is the subject of an order, a proceeding or an institution of a proceeding by or in any civil court, criminal court or administrative agency involving any aspect of the securities business, any felony or a U.S. Post Office fraud order.

(i) The report required by Subsection (1)(i) above shall be accompanied by a copy of any notice, order, pleading, indictment, accusation or similar legal document that such broker-dealer, agent or principal has received in the case.

(2) Every agent or applicant shall promptly notify the Commissioner in writing of any material changes in any information, exhibits or schedules disclosed in his or her application. A correction amendment shall be filed at the time of the occurrence or promptly after discovery of the change. Material changes include, but are not limited to, the following:

(a) Change of address.

(b) Termination of agency with the broker-dealer or issuer with whom licensed.

(c) The filing of a criminal charge or civil action against the applicant in which a fraudulent, dishonest or investment-related act is alleged.

(d) The agent or applicant becomes aware that it, he or she is the subject of an order, a proceeding or an institution of a proceeding by or in any civil court, criminal court or administrative agency involving any aspect of the securities business, any felony or a U.S. Post Office fraud order.

(3) Any broker-dealer or agent who fulfills the reporting requirements of CRD shall be deemed to be in compliance with reporting requirements of the Act and the Rules.

Cite as Ga. Comp. R. & Regs. R. 590-4-5-.09
Authority: O.C.G.A. Secs. 10-5-35, 10-5-36, 10-5-40, 10-5-70, 10-5-74.
History. Original Rule entitled "Notice of Changes in Circumstances" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-5-.10. Fees.

(1) A person required to pay a filing or notice fee under Section 10-5-39 shall transmit the fee through CRD.

(2) In addition to the above fees, each applicant shall pay any and all processing costs or charges imposed by CRD incident to the registration or renewal.

(3) Each applicant shall pay a $5.00 processing fee made payable through CRD. No portion of the processing fee is refundable. Applications will not be accepted, and thus will not be considered filed by the Commissioner, until registrants have paid the processing fee. The fee shall be effective for applications filed after December 31, 2021.

Cite as Ga. Comp. R. & Regs. R. 590-4-5-.10
Authority: O.C.G.A. §§ 10-5-35, 10-5-39, 10-5-70, 10-5-74.
History. Original Rule entitled "Fees" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.
Amended: F. Dec. 9, 2021; eff. Dec. 29, 2021.

Rule 590-4-5-.11. Broker-Dealer Post-Registration Requirements.

Financial Requirements. Any broker-dealer that is not registered with the SEC, is not a member of FINRA, or is not a member of any national securities exchange registered with the SEC must have sufficient assets to meet its obligations as they mature. A broker-dealer will be considered to have sufficient assets to meet its obligations as they mature if:

(a) In the case of a broker-dealer who proposes to buy and sell securities or hold securities for the account of customers:

1. Has not less than $15,000 net worth and not less than $15,000 in liquid assets; or

2. Is subject to, and in compliance with, the net capital rules of the SEC; or

3. Is exempt from the net capital rules of the SEC by virtue of membership in an exchange and is in compliance with the net capital rules of the exchange;

(b) In the case of a broker-dealer who proposes only to sell securities and will not hold securities for the account of customers, has not less than $5,000 net worth and not less than $5,000 in liquid assets.

Cite as Ga. Comp. R. & Regs. R. 590-4-5-.11
Authority: O.C.G.A. Secs. 10-5-40, 10-5-70, 10-5-74.
History. Original Rule entitled "Broker-Dealer Post-Registration Requirements" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-5-.12. Supervisory Requirements.

(1) Every broker-dealer registered, or required to be registered, under the Act shall exercise diligent supervision over the activities of its agents and associated persons.

(a) Each agent and other associated person shall be subject to the supervision of a designated supervisor.

(b) Written procedures, a copy of which shall be kept or capable of being accessed in each Office of Supervisory Jurisdiction ("OSJ"), shall be established, maintained and enforced, and shall set forth the standards and procedures adopted to comply with the requirements imposed by the Act and the Rules, including, but not limited to, the following:

1. Administrative review and written approval of all new customer accounts;

2. Periodic examination of customer accounts to detect and prevent irregularities or abuses;

3. Prompt administrative review of all customer complaints and arbitrations;

4. Prompt administrative review of correspondence pertaining to the solicitation and execution of securities transactions; and

5. The review by the designated supervisor, and his or her written approval, of the delegation by any customer of discretionary authority with respect to his

or her account, and the frequent, periodic examination of all such discretionary accounts to prevent irregularities or abuses.

(c) Each registered agent, individually or collectively, shall participate, not less than annually, in an interview or meeting conducted by persons designated by the broker-dealer at which compliance matters relevant to the activities of the agent(s) are discussed. Such interview or meeting may occur in conjunction with the discussion of other matters and may be conducted at a central or regional location or at the agent's place of business.

(d) Each broker-dealer shall conduct a review, at least annually, of the businesses in which it and its registered agents engage that shall be reasonably designed to assist in detecting and preventing violations of, and achieving compliance with, the Act and the Rules. Each broker-dealer shall review the activities of each of its offices, including periodic examinations of customer accounts to detect and prevent irregularities or abuses, and each broker-dealer shall conduct at least an annual inspection of each OSJ. Each branch office of the broker-dealer shall be inspected according to a cycle that shall be set forth in the broker-dealer's written supervisory and inspection procedures. In establishing such a cycle, the broker-dealer shall give consideration to the nature and complexity of the securities activities for which the location is responsible, the volume of business done and the number of associated persons assigned to the location. Each broker-dealer shall retain a written record of the dates upon which each review and inspection is conducted.

(e) It shall be the responsibility of each broker-dealer and supervisor to ascertain that all agents are properly registered, as required by the Act and the Rules, prior to making offers or sales of securities.

(f) It shall be the responsibility of each broker-dealer and their supervisors to ensure that all associated persons of such broker-dealer are properly trained regarding the disclosure requirements and the civil and criminal liability provisions of the Act.

(g) It shall be the responsibility of each broker-dealer and their supervisors to approve all outside investment and securities business activities of each agent prior to the agent engaging in such activity.

(2) It shall be the responsibility of each broker-dealer to ensure that all broker-dealer and agent disciplinary data required by the Act and these Rules is promptly and accurately reported in accordance with the requirements of the CRD, or as the Commissioner may designate for broker-dealers that are not registered with the SEC, are not members of FINRA or are not members of any national securities exchange registered with the SEC.

(3) Every issuer who employs any broker-dealer or agent in connection with the sale of securities shall comply with the supervision requirements as set forth in the Act and these Rules.

Cite as Ga. Comp. R. & Regs. R. 590-4-5-.12
Authority: O.C.G.A. Secs. 10-5-31, 10-5-35, 10-5-70, 10-5-74.
History. Original Rule entitled "Supervisory Requirements" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-5-.13. Expiration and Renewal of Registration.

(1) All broker-dealer and agent registrations expire at midnight on December 31 of each year.

(2) All procedures, renewal schedules and fee collection methods announced by the CRD shall be applicable to registration renewals processed through the CRD for broker-dealers or agents.

(3) Except as otherwise provided in Subsection (4) below, all renewal applications must be filed with all necessary information and required filing fees no earlier than October 1st and no later than December 31st of each year.

(4) An application for renewal registration as a broker-dealer or agent shall be filed consistent with instructions from FINRA as operators of the CRD, shall contain the fee required by the Act and shall contain such amendments to the initial registration as may be required by the applicable provisions of the Act or these Rules.

(5) Agents or broker-dealers who are registered through the CRD shall submit an annual renewal fee directly through the CRD. Any agent or broker-dealer bond or evidence of the continuation of an agent or broker-dealer bond shall be sent directly to the Commissioner.

(6) Unless otherwise provided by the Commissioner, renewal of registration as a broker-dealer or agent shall be effective when the Commissioner has received notice from the CRD that all fees have been paid and when the required bond has been filed with the Commissioner.

(7) During the period after the broker-dealer registration has expired (January 1) and before the effectiveness of the renewal application, the broker-dealer shall have no authority to transact securities business in Georgia.

Cite as Ga. Comp. R. & Regs. R. 590-4-5-.13
Authority: O.C.G.A. Secs. 10-5-35, 10-5-39, 10-5-70, 10-5-74.
History. Original Rule entitled "Expiration and Renewal of Registration" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-5-.14. Multiple Registration.

(1) An individual may apply to be registered as an agent for more than one broker-dealer by the filing of a separate U-4 application through CRD by each registered broker-dealer and the payment of separate application fees, as required, through CRD. The Commissioner may deny the multiple registration applications if he or she determines that it is not in the best interests of the public. By having the multiple registration applications submitted on his or her behalf, the agent affirmatively represents that he or she will make all disclosures to his or her clients and the affected broker-dealers regarding actual or potential conflicts of interests.

(2) Each broker-dealer that employs a multiple registered agent shall comply with the requirements of CRD regarding the multiple registration of agents.

(3) Nothing in this Rule shall relieve the broker-dealer for whom an agent is actually acting of the responsibilities imposed by the Act and the Rules for the transactions of each agent.

Cite as Ga. Comp. R. & Regs. R. 590-4-5-.14
Authority: O.C.G.A. Secs. 10-5-31, 10-5-35, 10-5-70, 10-5-74.
History. Original Rule entitled "Multiple Registrations" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-5-.15. Cross Border Transaction.

(1) A broker-dealer that is registered in Canada or other foreign jurisdiction and that does not have a place of business in Georgia may effect transactions in securities with, or for, or attempt to, effect the purchase or sale of any securities by:

   (a) An individual from Canada or other foreign jurisdiction who is temporarily present in Georgia and who maintains his/her domicile in Canada or other foreign jurisdiction and with whom the qualifying broker-dealer had a bona fide customer relationship before the individual entered the United States;

   (b) An individual from Canada or other foreign jurisdiction who is present in Georgia and whose transactions are in a self-directed tax advantaged retirement plan of which the individual is the holder or contributor in that foreign jurisdiction; or

   (c) An individual who is present in Georgia, with whom the broker-dealer customer relationship arose while the individual was temporarily or permanently resident in Canada or the other foreign jurisdiction.

(2) An agent who represents a qualifying broker-dealer that is exempt under this Subsection to effect transactions in securities or attempt to effect the purchase or sale of securities in Georgia, and who is properly registered with the broker-dealer pursuant to the laws of the

broker-dealer's home jurisdiction, shall be exempt in the identical manner as the qualifying broker-dealer described in Subsection (1) of this Rule.

Cite as Ga. Comp. R. & Regs. R. 590-4-5-.15
Authority: O.C.G.A. Secs. 10-5-30, 10-5-70, 10-5-74.
History. Original Rule entitled "Cross Border Transactions" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-5-.16. Dishonest or Unethical Business Practices.

(1) Every entity, organization, or individual regulated by the Act shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of business. The Commissioner may, at his or her discretion, take such action authorized by the Act regarding any entity, organization, or individual regulated by the Act.

(2) The following are prohibited acts:

(a) Broker-Dealers

1. Making false, misleading, deceptive, or exaggerated, representations or predictions in the offer, purchase or sale of securities;

2. Representing, agreeing, or guaranteeing, directly or indirectly, in writing or orally that:

(i) There is a guarantee against loss or risk;

(ii) The customer's capital will increase or that the purchase involves a preservation of original capital and protection against loss in value;

(iii) The securities will be repurchased or resold; or

(iv) A market will be established in the shares that will regularly be bought and sold;

3. Executing a transaction on behalf of a customer without authorization to do so;

4. Recommending to a customer the purchase, sale or exchange of securities without reasonable grounds to believe that the transaction or recommendation is suitable for the customer based on the customer's financial condition, investment objectives, and risk tolerance;

5. Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written authority from the

customer, unless the discretionary power relates solely to the time and/or price for the execution of the order;

6. Effecting transactions pursuant to discretionary authority that are excessive in size or frequency in relation to the financial resources of the customer or the character of his or her account;

7. Knowingly effecting transactions in a customer account for the purpose of accumulating or compounding commissions;

8. Charging an excessive or unreasonable markup or commission;

9. Offering to buy or sell to any person any security at a stated price unless such broker-dealer is prepared to purchase or sell at such price and under such conditions as are stated at the time of such offer to buy or sell;

10. Using any advertising or sales presentation in such a fashion as to be deceptive or misleading;

11. Marking any order ticket or confirmation as unsolicited when in fact the transaction was solicited;

12. Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement promptly after the initial transaction in the account;

13. Creating an impression of false supply or demand or manipulating a market to create false supply or demand;

14. Engaging or aiding in "boiler-room" operations or high pressure tactics in connection with the promotion of speculative securities by means of an intensive telephone campaign or unsolicited calls to persons not known by or having an account with the salesperson or broker-dealer, whereby the prospective purchaser is encouraged to make a hasty decision to buy, irrespective of his or her investment needs and objectives;

15. Representing that a security is being offered to a customer "at the market" or a price relevant to the market price unless the broker-dealer knows or has reasonable grounds to believe that a market for such security exists other than that made, created or controlled by such broker-dealer, or by any person for whom he or she is acting or with whom he or she is associated in such distribution, or any person controlled by, controlling or under common control with such broker-dealer;

16. Failing to refrain from soliciting prospective customers who have informed the broker-dealer that such persons do not want to be solicited, and conducting business by telephone at unreasonable times;

17. Failing to furnish to a customer purchasing securities in a registered offering, no later than the date of confirmation of the transaction, a final or preliminary prospectus, and, if the latter, failing to furnish a final prospectus within a reasonable period after the effective date of the offering;

18. Failing to make a bona fide offering of all of the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter, a selling group member, or from a member participating in the distribution as an underwriter or selling group member;

19. Failing to segregate a customer's free securities or securities held in safekeeping; and

20. Hypothecating a customer's securities without having a lien thereon unless the broker-dealer secures from the customer a properly executed written consent promptly after the initial transaction, except as permitted by the rules of the SEC.

(b) Agents

1. Engaging in the practice of lending or borrowing money or securities from a customer, or acting as a custodian for money, securities or an executed stock power of a customer;

2. Effecting securities transactions not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transactions are authorized in writing by the broker-dealer prior to execution of the transaction;

3. Engaging in an outside business activity away from the broker-dealer without giving prior written notice;

4. Establishing or maintaining an account containing fictitious information in order to execute transactions which would otherwise be prohibited;

5. Sharing directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the broker-dealer which the agent represents;

6. Dividing or otherwise splitting the agent's commissions, profits or other compensation from the purchase or sale of securities with any person not also registered as an agent for the same broker-dealer, or for a broker-dealer under direct or indirect common control; and

7. Engaging in conduct specified in subsection (1)(a).

(3) Senior-specific Certifications and Designations. The improper use of a senior-specific certification or designation by any person in connection with the offer, sale, or purchase of securities, or the provision of advice as to the value of or the advisability of investing in, purchasing, or selling securities, either directly or indirectly, through publications or writings, or by issuing or promulgating analyses or reports relating to securities, that indicate or imply that the user has special certification or training in advising or servicing senior citizens or retirees in such a way as to mislead any person shall be a dishonest and unethical business practice.

Cite as Ga. Comp. R. & Regs. R. 590-4-5-.16
Authority: O.C.G.A. Secs. 10-5-41(a), 10-5-70.
History. Original Rule entitled "Dishonest or Unethical Business Practices" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-5-.17. Associated Persons of an Issuer Deemed not to be Broker-Dealers.

(1) An associated person of an issuer of securities shall not be deemed to be a broker-dealer solely by reason of his participation in the sale of the securities of such issuer if the associated person:

(a) Is not subject to a statutory disqualification, as that term is defined in section 3(a)(39) of the Securities Exchange Act of 1934, at the time of his participation;

(b) Is not compensated in connection with his participation by the payment of commissions or other remuneration based either directly or indirectly on transactions in securities;

(c) Is not at the time of his participation an associated person of a broker-dealer; and

(d) Meets the conditions of any one of paragraph (1)(d) 1., 2., or 3.of this section.

1. The associated person restricts his participation to transactions involving offers and sales of securities:

(i) To an Institutional Investor, as defined in O.C.G.A. section 10-5-2(13);

(ii) That are exempted by reason of section 3(a)(7), 3(a)(9) or 3(a)(10) of the Securities Act of 1933 from the registration provisions of that Act;

(iii) That are made pursuant to a plan or agreement submitted for the vote or consent of the security holders who will receive securities of the issuer in connection with a reclassification of securities of the issuer, a merger or consolidation or a similar plan of acquisition involving an exchange of securities, or a transfer of assets of any other person to the issuer in exchange for securities of the issuer; or

(iv) That are made pursuant to a bonus, profit-sharing, pension, retirement, thrift, savings, incentive, stock purchase, stock ownership, stock appreciation, stock option, dividend reinvestment or similar plan for employees of an issuer or a subsidiary of the issuer;

2. The associated person meets all of the following conditions:

(i) The associated person primarily performs, or is intended primarily to perform at the end of the offering, substantial duties for or on behalf of the issuer otherwise than in connection with transactions in securities; and

(ii) The associated person was not a broker-dealer, or an associated person of a broker-dealer, within the preceding 12 months; and

(iii) The associated person does not participate in selling an offering of securities for any issuer more than once every 12 months other than in reliance on paragraph (1)(d)(i) or (iii) of this section, except that for securities issued pursuant to rule 415 under the Securities Act of 1933, the 12 months shall begin with the last sale of any security included within one rule 415 registration.

3. The associated person restricts his participation to any one or more of the following activities:

(i) Preparing any written communication or delivering such communication through the mails or other means that does not involve oral solicitation by the associated person of a potential purchaser; provided, however, that the content of such

communication is approved by a partner, officer or director of the issuer;

(ii) Responding to inquiries of a potential purchaser in a communication initiated by the potential purchaser; provided, however, that the content of such responses are limited to information contained in a registration statement filed under the Securities Act of 1933 or other offering document; or

(iii) Performing ministerial and clerical work involved in effecting any transaction.

(2) No presumption shall arise that an associated person of an issuer has violated O.C.G.A. § 10-5-30 solely by reason of his participation in the sale of securities of the issuer if he does not meet the conditions specified in paragraph (1) of this section.

(3) Definitions. When used in this section:

(a) The term associated person of an issuer means any natural person who is a partner, officer, director, or employee of:

1. The issuer;

2. A corporate general partner of a limited partnership, or managing member of a limited liability company, that is the issuer;

3. A company or partnership that controls, is controlled by, or is under common control with, the issuer; or

4. An investment adviser registered under the Investment Advisers Act of 1940 to an investment company registered under the Investment Company Act of 1940 which is the issuer.

(b) The term associated person of a broker-dealer means any partner, officer, director, or branch manager of such broker or dealer (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such broker or dealer, or any employee of such broker or dealer, except that any person associated with a broker or dealer whose functions are solely clerical or ministerial and any person who is required under the laws of any State to register as a broker or dealer in that State solely because such person is an issuer of securities or associated person of an issuer of securities shall not be included in the meaning of such term for purposes of this section.

Cite as Ga. Comp. R. & Regs. R. 590-4-5-.17
Authority: O.C.G.A. Sec. 10-5-2(3)(E).
History. Original Rule entitled "Associated Persons of an Issuer Deemed not to be Broker-Dealers" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Subject 590-4-6. RULES GOVERNING ADMINISTRATIVE HEARINGS.

Rule 590-4-6-.01. Applicability and Scope of Rules.

(1) The Rules of this Chapter 590-4-6 shall govern all hearings arising under the Act.

(2) All hearings will be conducted before the Commissioner, the Assistant Commissioner, a referee appointed by the Commissioner, or an Administrative Law Judge designated by the Office of State Administrative Hearings. Hearings held by an Administrative Law Judge shall be subject to the policies, rules, and procedures of the Office of State Administrative Hearings. For the purposes of these Rules "the Hearing Officer" shall refer to the Commissioner or the Assistant Commissioner of Securities for the State of Georgia, and unless the context requires otherwise, to a referee or an Administrative Law Judge.

(3) The Hearing Officer shall afford a liberal construction of these Rules where respondents in a case are not represented by counsel. Moreover, at the discretion of the Hearing Officer, the procedural requirements of these Rules may be relaxed in appropriate cases where such relaxation will facilitate the resolution of the matter without prejudice to the parties and will not be inconsistent with the requirements of the Georgia Administrative Procedure Act ("APA") or other applicable statute.

(4) Procedural questions arising at any stage of the proceeding that are not addressed in the APA, any other applicable law, or these Rules shall be resolved at the discretion of the Hearing Officer, as justice requires. The Hearing Officer may consult and utilize the Civil Practice Act, Code Section Title 9, Chapter 11, and the Uniform Rules for the Superior Courts in the exercise of his or her discretion.

(5) In the event any requirement of these Rules conflicts with, or is supplemented by, an applicable state or federal statute or a federal rule governing hearings, the requirement of the conflicting or supplementing state or federal statute or the federal rule shall be applied by the Hearing Officer either on the Hearing Officer's own initiative or on the written notice or motion of any party.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.01
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74, 44-3-4, 44-3-6, 50-13-13.
History. Original Rule entitled "Land Sales Limited Offering Exemption" adopted. F. Sept. 30, 1982; eff. Nov. 1, 1982, as specified by the Agency.
Amended: F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: F. Dec. 13, 1990; eff. Jan. 2, 1991.
Amended: New Rule entitled "Applicability and Scope of Rules" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.02. Filing and Submission of Documents.

(1) All submissions authorized or required to be filed with the Hearing Officer under the Act and these Rules shall be filed on 8½ by 11 inch paper with the Hearing Officer's Clerk ("Clerk"). Submissions shall be deemed filed on the date on which they are received by the Clerk, or the official postmark date such document was mailed, properly addressed to the Clerk with postage prepaid, whichever date comes first. At the Hearing Officer's discretions submissions may also be filed by facsimile, email or other approved electronic means designated by the Hearing Officer.

(2) The office hours of the Clerk shall be 8:00 a.m. to 5:00 p.m., Monday through Friday, except State legal holidays.

(3) All submissions shall be signed by the person making the submission, or by said person's attorney or other authorized agent or representative, and shall state the name, address, telephone number and the representative capacity of the person making the submission. The signature of an attorney or party shall constitute a certification that the signer has read the submission and that it is not interposed for delay or any improper purpose.

(4) All legal authority referred to, or in any way relied upon, in any submission that is not already a part of the record shall be included in full and may not be incorporated by reference. This requirement does not apply to published decisions of the Georgia appellate courts, the Official Code of Georgia Annotated, Georgia Laws, Georgia Rules and Regulations or any federal statutes or regulations.

(5) Failure to comply with this Rule, or any other requirement of the Act and these Rules relating to the form or content of submissions to be filed, may result in the exclusion from the record, and the consideration by the Hearing Officer, of the non-complying submission. If, on motion by any party or on the Hearing Officer's own motion, the Hearing Officer determines that a submission fails to meet any filing requirement of the Act or these Rules, the Hearing Officer may direct the Clerk to notify the party that the filing has been rejected and refer to the applicable Rule(s) upon which the rejection is based. A party whose submission has been rejected shall have ten (10) days from the date of objection within which to conform the submission to the applicable Rule(s) and refile the submission.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.02
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Filing and Submission of Documents" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.03. Computation of Time.

(1) Computation of any period of time referred to in Chapter 6 of these Rules shall begin with the first day following the day on which the act that initiates such period of time occurs. When the last day of the period so computed is a day on which the office of the Hearing Officer's Clerk is closed, the period shall run until the end of the following business day.

(2) Whenever a party has the right, or is required, to do some act or take some action within a prescribed period after the service of notice or other paper, other than process, issued by a court or the Hearing Officer upon the party by another party within a period prescribed by these Rules and not otherwise specified by law, three days shall be added to that prescribed period if the notice or paper is served by mail.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.03
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Computation of Time" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.04. Changes of Time.

For good cause shown, the Hearing Officer may change, either on the Hearing Officer's own motion or on the motion of any party, any time limit prescribed or allowed by these Rules. The Hearing Officer shall notify all parties of any determination to change any time limit.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.04
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Changes of Time" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.05. Burden of Proof; Admissibility of Copies of Records.

(1) The burden of proof in all administrative matters shall be as follows:

(a) In any case involving the imposition of civil penalties, an administrative enforcement order, or the revocation, suspension, amendment, or non-renewal of a registration, the holder of the registration or the person from whom civil penalties are sought, or against whom an order is issued, shall bear the burden as to any affirmative defenses he, she, or it raises;

(b) Any party challenging the issuance, revocation, suspension, amendment, or non-renewal of a registration who is not the registrant shall bear the burden;

(c) Any applicant for a registration that has been denied shall bear the burden. Any registrant that appeals the conditions, requirements, or restrictions placed on a registration shall bear the burden; and

(d) In any case involving the imposition of civil penalties, an administrative enforcement order, or the revocation, suspension, amendment, or non-renewal of a registration, the registrant or the person from whom civil penalties are sought, or against whom an order is issued, shall bear the burden of proving any exemption or exception from a definition.

(e) A person claiming an exemption, exception, preemption, or exclusion has the burden to prove the applicability of the claim.

(f) The Hearing Officer may, on his or her own motion or on motion of any party and by notice to the parties at least three (3) days prior to the hearing where practicable, but in any event before the start of the hearing, determine that the law or justice requires a different placement of the burden of proof.

(2) Copies of any documents filed in the Commissioner's office and of any records kept by the Commissioner, whether such copies are photostatic or electronic imaging, or otherwise, certified by the Commissioner, shall be admissible with the same force and effect as the original of such documents or records would have if they were produced.

(3) A certificate signed and sealed by the Commissioner indicating compliance or noncompliance by a person with the Act shall constitute prima-facie evidence of such compliance or noncompliance with the Act, and shall be admissible.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.05
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Burden of Proof; Admissibility of Copies of Records" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.06. Amendments to Pleadings.

The Hearing Officer may require or permit any party to file a Charging Document (which may be a Notice of Opportunity for Hearing and Proposed Order or some other document) or an Answer to a Charging Document. In the event any such pleading is required by the Hearing Officer, any party may amend such a pleading without leave of the Hearing Officer until the tenth (10th) day prior to the date set for hearing on the matter, or until the entry of a prehearing order, whichever occurs first. Thereafter, a party may amend his, her, or its pleadings only by written consent of the adverse party or by leave of the Hearing Officer for good cause shown. If an amendment is made to any pleading to which a response or reply is required, a response or reply to such amendment shall be filed within seven (7) days after service of the amendment, unless otherwise ordered by the Hearing Officer.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.06
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Amendments to Pleadings" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.07. Notice of Hearing.

(1) As soon as practicable after the receipt of a request for a hearing, either by the Respondent or the Commissioner's staff ("Staff"), and the filing of any responsive pleading(s), the Hearing Officer shall issue a notice of hearing, which shall include:

(a) The time, place, and nature of the hearing;

(b) The legal authority and jurisdiction pursuant to which the hearing was requested;

(c) The specific laws and rules involved;

(d) A short and plain statement of the matters asserted;

(e) The right of parties to subpoena witnesses and documentary evidence, to be represented by legal counsel, and to respond, and present evidence on, all issues involved; and

(f) The potential consequences of a failure by any Respondent to attend a hearing.

(2) If the Hearing Officer is unable to state the matters in detail on the basis of the pleadings filed, the notice may be limited to a statement of the issues involved. Thereafter, the Hearing Officer may require more detailed pleadings, and, upon the written application of a party, the Hearing Officer shall furnish, or shall require the appropriate party to furnish, a more detailed statement. The notice may incorporate by reference information set forth in the petition, the responsive pleading(s), a prehearing order, or any other material included in the record of the matter at issue.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.07
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74, 50-13-13.
History. Original Rule entitled "Notice of Hearing" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.08. Ex Parte Communications.

(1) Commencing with the filing of a request for a hearing, no person shall communicate ex parte with the Hearing Officer relating to the merits of the proceeding without the knowledge and consent of all other parties to the matter until the matter is no longer pending in any administrative or judicial forum; provided that:

(a) Where circumstances require, ex parte communications for scheduling, administrative, or procedural requirements or purposes, or emergencies that do not deal with substantive matters or issues on the merits of the case are authorized; if:

1. The Hearing Officer reasonably believes that no party will gain procedural or tactical advantage as a result of the ex parte communication, and

2. If appropriate under the circumstances, the Hearing Officer makes provision promptly to notify all other parties of the substance of the ex parte communication and allows all other parties an opportunity to respond; and

(b) Ex parte communications shall not include normal and customary contact between the Commissioner and his or her staff not relating to the contested case.

(2) If the Hearing Officer receives a communication prohibited by this Rule, the Hearing Officer shall file with the Clerk any written communication received and a memorandum stating the substance of any oral communication received. The Clerk shall forthwith notify all parties of the receipt of such communication and its availability for inspection.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.08
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Ex Parte Communications" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.09. Service.

(1) A party filing any submission under this Rule shall simultaneously serve a copy of the submission upon each party of record. Service shall be made by mail or personal delivery, or, in the discretion of the Hearing Officer, by facsimile, email or other electronic media. Service by mail shall be complete upon mailing by first class mail, with proper postage affixed, to a party's address of record. Service by electronic means, if permitted, shall be effective upon delivery.

(2) Every submission shall be accompanied either by an acknowledgment of service from the person served, or his, her, or its authorized agent for service, or by a certificate of service stating the date, place and manner of service and the name and address of the persons served.

(3) The Clerk shall maintain, and upon request furnish to parties of record in a matter, a list containing the name, service address, and telephone number of each other party or his, her, or its attorney or duly authorized representative.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.09
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Service" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.10. Consolidation and Severance.

(1) In proceedings involving common issues of law or fact, whenever it appears to the Hearing Officer that a joint hearing would serve to expedite or simplify consideration of those issues and that no party would be prejudiced thereby, the Hearing Officer may, upon motion of any party or the Hearing Officer, consolidate such proceedings for hearing on any or all of the common issues in such proceedings.

(2) Whenever the Hearing Officer determines that it would be more conducive to an expeditious, full and fair hearing for any party or issue to be heard in separate proceedings, the Hearing Officer may, upon motion of any party or the Hearing Officer, sever the party or issue for such separate hearing.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.10
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Consolidation and Severance" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.11. Substitution of Parties; Intervention.

(1) The Hearing Officer may, upon motion, permit substitution of parties, as justice requires.

(2) Any person seeking to intervene shall file a motion stating the specific grounds upon which intervention is sought and attaching a pleading setting forth the claim or defense for which intervention is sought. In order to avoid undue delay or prejudice to the adjudication of the rights of the original parties, the Hearing Officer may limit the factual or legal issues that may be raised by an intervenor.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.11
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74, 50-13-14.
History. Original Rule entitled "Substitution of Parties; Intervention" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.12. Prehearing Conferences.

(1) Each person subject to an order issued by the Commissioner under Section 10-5-73 or any other applicable provision of the Act or the subject of a Notice of Proposed Order and Opportunity for Hearing under any provision of the Act, may request a pre-hearing conference with the Commissioner or the Commissioner's staff in lieu of or prior to a hearing as specified in Section 10-5-73(b).

(2) The Commissioner's receipt of a request for a pre-hearing conference will toll, until the date that the pre-hearing conference is scheduled, the running of the time for requesting and setting a hearing as specified in Section 10-5-73(b). In determining the number of days that have run, neither the day on which the request for a pre-hearing conference is received by the Commissioner nor the day on which the conference is scheduled shall be counted.

(3) The pre-hearing conference shall begin with a telephonic or in-person meeting between the Commissioner or the Commissioner's staff and the party requesting the pre-hearing conference. The party requesting the pre-hearing conference may be represented by counsel who may appear at the pre-hearing conference in the requesting party's stead.

(4) The pre-hearing conference may remain open until the matter is resolved or the Commissioner terminates the pre-hearing conference. The Commissioner may terminate the pre-hearing conference by order or written correspondence.

(5) A hearing conducted under any provision of the Georgia Uniform Securities Act of 2008 may be preceded by a pre-hearing conference if the parties so agree.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.12
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-71, 10-5-73, and 10-5-74.
History. Original Rule entitled "Prehearing Conferences" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.13. Summary Determination.

(1) Any party may move, based on supporting affidavits or other probative evidence, for a summary determination in its favor upon any of the issues being adjudicated on the basis that there is no genuine issue of material fact for determination. There shall be included in such motion, or annexed thereto, a short and concise statement of each of the material facts as to which the moving party contends there is no genuine issue for determination. Such a motion must be filed and served on all parties no later than ten (10) days after the filing of the prehearing order or thirty (30) days before the date set for hearing, whichever is later; provided that, upon good cause shown, the Hearing Officer may allow the motion to be filed at any time before the close of the hearing.

(2) Any party may file and serve a response to a motion for summary determination or a counter motion for summary determination within twenty (20) days after service of the motion for summary determination. The response shall include a short and concise statement of each of the material facts as to which it is contended there exists a genuine issue for determination.

(3) When a motion for summary determination is made and supported, as provided in this Rule, a party opposing the motion may not rest upon mere allegations or denials, but must

show, by affidavit or other probative evidence, that there is a genuine issue of material fact to be determined in the hearing.

(4) Affidavits shall be made upon personal knowledge, shall set forth facts that would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto and served therewith. Where facts necessary for summary determination are a matter of expert opinion, such facts may be resolved on the basis of uncontroverted affidavits or testimony of an expert.

(5) The Hearing Officer may set the motion for oral argument and call for the submission of proposed conclusions of law, findings of fact, and briefs. If the period required to rule upon the motion will extend beyond the date set for the hearing, the Hearing Officer may, on the Hearing Officer's own initiative, continue the hearing until the Hearing Officer rules upon the motion.

(6) The Hearing Officer may determine that the matter may better be resolved via an evidentiary hearing and is inappropriate for resolution by summary determination. If the Hearing Officer decides to deny a summary determination motion, the Hearing Officer shall notify the parties in writing of that determination.

(7) If all issues are decided by summary determination, no hearing will be held, and the Hearing Officer shall prepare his or her decision. If summary determination is denied, or if partial summary determination is granted, the Hearing Officer shall issue a memorandum opinion and order, interlocutory in nature, and the hearing will proceed on the remaining issues and factual matters still in dispute.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.13
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74, 50-13-13, 50-13-17.
History. Original Rule entitled "Summary Determination" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.14. Motions.

(1) An application to the Hearing Officer for an order requiring any party to take any action or for the entry of any interlocutory ruling shall be made by motion. Unless made during the hearing, motions shall be in writing, shall state specifically the grounds therefore and shall describe the action or order sought. A copy of any written motion shall be served upon all parties.

(2) Within ten (10) days after service of any written motion, any party to the proceedings may file a response to the motion. The time for response may be shortened or extended by the Hearing Officer for good cause shown. Any party desiring resolution of a motion prior to the expiration of the ten (10) day response period shall file a written request for expedited consideration with the motion.

(3) Unless otherwise provided by the Hearing Officer, the Act, or the Rules relating to a specific type of motion, all motions shall be filed at least ten (10) days prior to the date set for hearing unless the need or opportunity for the motion could not reasonably have been foreseen ten (10) days prior to said date in which case the motion shall be filed or presented as soon as possible after the need or opportunity for the motion becomes reasonably foreseeable.

(4) All motions and responses shall include, or be accompanied by, citations of supporting authorities, and, when a motion depends upon factual allegations, supporting affidavits or citations to evidentiary materials of record.

(5) The Hearing Officer may, either upon the Hearing Officer's own initiative or at the request of any party, determine whether the nature and complexity of the motion justifies a hearing on the motion and notify the parties accordingly. A request for a hearing on a motion must be made in writing and filed by the date the response to the motion is to be filed. The Hearing Officer shall give notice of a hearing on a motion at least five (5) days prior to the date set for the hearing. At the discretion of the Hearing Officer, such hearings may be conducted, in whole or in part, via telephonic conference. If a hearing on a motion is not requested or deemed justified, the Hearing Officer shall rule upon the motion forthwith.

(6) Multiple motions may be consolidated for hearing or heard at a prehearing conference. The Hearing Officer may request submission of briefs, oral argument, or both, either in support of, or in opposition to, any motion.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.14
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Motions" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.15. Withdrawal of Request for Hearing; Settlement.

(1) The party requesting the hearing may withdraw a request for hearing at any time, whereupon the Hearing Officer may enter an order dismissing the matter.

(2) The parties may, at any time, present to the Hearing Officer, a proposed settlement proposal. Upon receipt of such a proposal, the Hearing Officer may accept or reject such proposal.

(3) Nothing herein shall preclude the Commissioner from resolving, in his or her sole discretion, any contested case by consent order or other appropriate action.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.15
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74, 50-13-13..
History. Original Rule entitled "Withdrawal of Request for Hearing; Settlement" adopted. F. Dec. 21, 2004; eff. Jan.

10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.16. Evidence; Official Notice.

(1) Pursuant to the APA, the Hearing Officer shall apply the rules of evidence as applied in the trial of civil nonjury cases in the superior courts and may, when necessary to ascertain facts not reasonably susceptible of proof under such rules, consider evidence not otherwise admissible thereunder if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs At the discretion of the Hearing Officer, such evidence that may be admitted includes the following:

(a) Records, reports, statements, plats, maps, charts, surveys, studies, analyses, or data compilations, in any form, of public offices or agencies, setting forth (i) the activities of the office or agency, or (ii) matters observed pursuant to duty imposed by law as to which matters there was a duty to report, or (iii) factual findings resulting from an investigation or research not performed in conjunction with the matter being heard and carried out pursuant to authority granted by law, unless its probative value cannot be determined or it lacks trustworthiness due to the sources of information or other circumstances;

(b) Reports, records, statements, plats, maps, charts, surveys, studies, analyses, or data compilations after testimony by an expert witness that the expert witness prepared such document and that it is correct to the best of the expert witness's knowledge, belief and expert opinion;

(c) To the extent called to the attention of an expert witness upon cross-examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by official notice;

(d) Any medical, psychiatric, or psychological evaluations, or scientific or technical reports, records, statements, plats, maps, charts, surveys, studies, analyses, or data compilations of a type routinely submitted to, and relied upon by, the Commissioner in the normal course of his or her business; and

(e) Documentary evidence in the form of copies, if the original is not readily available, if its use would unduly disrupt the records of the possessor of the original, or by agreement of the parties. Upon request, parties shall have an opportunity to compare the copy with the original. Documentary evidence may also be received in the form of excerpts, charts, or summaries when, in the discretion of the Hearing Officer, the use of the entire document would unnecessarily add to the record's length. The entire document shall be made

available for examination or copying, or both, by other parties at a reasonable time and place.

(2) Where practicable, a copy of each exhibit identified or tendered at the hearing shall be furnished to the Hearing Officer and the other parties when first presented at the hearing.

(3) The Hearing Officer shall give effect to statutory presumptions and the rules of privilege recognized by law.

(4) If scientific, technical, or other specialized knowledge may assist the Hearing Officer to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise. The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence. The expert may testify in terms of opinion or inference and give the reasons therefore without prior disclosure of the underlying facts or data, unless the Hearing Officer requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

(5) The Hearing Officer shall have the discretion to authorize or require the submission of direct testimony in written form. Unless otherwise ordered by the Hearing Officer, a party submitting such testimony in support of an issue on which he, she, or it has the burden of proof shall file and serve the testimony upon all parties not less than fifteen (15) Days before the hearing. All other such testimony shall be filed and served upon all parties not less than five (5) days before the hearing. The admissibility of the evidence contained in written testimony shall be subject to the same rules as if the testimony were produced under oral examination. The witness presenting the statement shall swear to or affirm the statement at the hearing and shall be subject to full cross-examination during the course of the hearing.

(6) Whenever any oral testimony sought to be admitted is excluded by the Hearing Officer, the proponent of the testimony may make an offer of proof by means of a brief statement on the record describing the excluded testimony. Whenever any documentary or physical evidence or written testimony sought to be admitted is excluded, it shall remain a part of the record as an offer of proof.

(7) All objections shall include a statement of the legal basis for the objection and shall be made promptly, or they shall be deemed waived. Parties shall be presumed to have taken exception to an adverse ruling. No objection shall be deemed waived by further participation in the hearing.

(8) Official notice may, in the discretion of the Hearing Officer, be taken of judicially recognizable facts. Any documents officially noticed shall be admitted into the record of the hearing. All parties shall be notified either prior to or during the hearing of the

material noticed, and any party shall, on a timely request, be afforded an opportunity to contest the matters of which official notice is taken.

(9) The weight to be given to any evidence shall be determined by the Hearing Officer based upon its reliability and probative value.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.16
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74, 50-13-15.
History. Original Rule entitled "Evidence; Official Notice" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.17. Subpoenas and Notices to Produce.

(1) The Hearing Officer shall have the authority to issue subpoenas requiring the attendance and testimony of witnesses and the production of objects or documents at depositions or hearings provided by these Rules and the Act.

(2) Requests for subpoenas shall be in writing and filed at least five (5) days prior to the hearing or deposition at which the attendance of the witness or the production of documents is sought, shall be served upon all parties, and shall identify the witnesses whose testimony is sought or the documents or objects sought to be produced. Every subpoena shall be issued by the Hearing Officer under the seal of the agency for which the Hearing Officer working and shall state the title of the action. The party requesting the subpoenas shall be responsible for filling in the subpoenas in a manner consistent with the request for subpoenas and serving the same sufficiently in advance of the hearing to secure the attendance of the witness or the availability of the witness's testimony on deposition at the time of the hearing.

(3) Any party that is not represented by counsel may be relieved by the Hearing Officer of the requirements of paragraph (2) above other than the service requirements. At the discretion of the Hearing Officer, such a party may obtain subpoenas by orally providing the Clerk with the names of the persons desired to be subpoenaed and a description of the testimony or documents or objects sought. If such a request for subpoenas is made orally and approved by the Hearing Officer, the Clerk shall reduce the request to writing and shall have a copy of the request served upon all other parties.

(4) A subpoena may be served at any place within this State and by any sheriff, by his deputy, or by any other person not less than 18 years of age. Proof of service may be shown by return or certificate endorsed on a copy of the subpoena. Subpoenas may also be served by registered or certified mail, and the return receipt shall constitute prima-facie proof of service. Service upon a party may be made by serving his, her, or its counsel of record. Fees and mileage shall be paid to the recipient of a subpoena in accordance with Code Section 24-10-24.

(5) Once issued, a subpoena may be quashed by the Hearing Officer if it appears that the subpoena is unreasonable or oppressive, or that the testimony, documents, or objects sought are irrelevant, immaterial, or cumulative and unnecessary to a party's preparation and presentation of his, her, or its position at the hearing, or that, for other good reasons, basic fairness dictates that the subpoena should not be enforced. The Hearing Officer may also condition denial of a motion to quash a subpoena upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the documents or objects.

(6) Once issued and served, unless otherwise conditioned or quashed, a subpoena shall remain in effect until the close of the hearing or until the witness is excused, whichever comes first.

(7) Where a party desires to compel production of documents or objects in the possession, custody, or control of another party, in lieu of serving a subpoena under this Rule, the party desiring the production may serve a notice to produce upon the other party. Service may be perfected in accordance with paragraph (4) above, but no fees or mileage shall be allowed therefor. Paragraphs (5) and (6) above shall also apply to such notices. The notice shall be in writing, signed by the party seeking production of the evidence, or his, her, or its attorney, and shall be directed to the opposite party or his, her, or its attorney. A copy of any notice to produce shall be filed simultaneously with the Clerk.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.17
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74, 50-13-13.
History. Original Rule entitled "Subpoenas and Notices to Produce" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005. Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.18. Depositions and Written Questions to Secure Testimony.

(1) Any time during the course of a proceeding, the Hearing Officer may, in the Hearing Officer's discretion, order that the testimony of a witness be taken by deposition or on written questions. Application to take a deposition in lieu of personal appearance at the hearing shall be made by motion filed with the Clerk and served upon all parties. Such motion shall state the name and address of the witness, the time when, the place where, and the subject matter about which the witness would be deposed, the relevance of such testimony, and the specific reason why the witness cannot, or will not, appear to testify at the hearing.

(2) In the exercise of the Hearing Officer's discretion in deciding whether to order testimony by deposition, the Hearing Officer may consider, among other factors:

(a) Whether requiring the appearance of a witness subject to subpoena would endanger the witness's health or work an undue hardship;

(b) Whether a showing has been made that a non-resident potential witness, who is not subject to subpoena in this State and is willing to appear voluntarily to be deposed in the jurisdiction of the witness's residence, would be subject to being compelled to appear and be deposed under any law in the jurisdiction of the witness's residence (e.g., a Uniform Foreign Depositions Act); or

(c) Whether ordering the taking of testimony by deposition will result in an undue burden on any other party, an undue delay in the proceeding, or any injury to other parties from the delay.

(3) If the Hearing Officer orders testimony by deposition, the Hearing Officer may specify whether the scope of examination upon deposition should be limited in any way.

(4) Procedures for oral depositions to secure testimony shall be as follows:

(a) Examination and cross-examination of a deponent shall proceed under the same rules of evidence applicable to hearings under the Act and these Rules. Each deponent shall be duly sworn by an officer authorized to administer oaths by the laws of the United States or the place where the examination is held, and the deponent's testimony shall be recorded and transcribed. Any objections made at the time of the deposition to the qualifications of the officer taking the deposition, to the manner of the taking of the deposition, to the evidence presented, to the conduct of any party, or any other objection to the proceedings shall be recorded and included in the transcript. Evidence objected to shall be taken subject to the objection.

(b) Any error or irregularity in the notice of taking testimony by deposition shall be deemed waived unless written objection thereto is filed with the Clerk and served upon all parties prior to the deposition. Any objection relating to the qualifications of the officer before whom the deposition is to be taken shall be deemed waived unless made before the deposition begins or as soon thereafter as the alleged lack of qualification becomes known or could be discovered in the exercise of reasonable diligence.

(c) Any objection to the competency of a witness or to the competency, relevancy, or materiality of testimony is not waived by failure to make such objection prior to or during the deposition unless the ground of the objection is one that might have been obviated or removed if presented prior to or during the deposition. Any error or irregularity occurring during the taking of the deposition in administering the oath or affirmation, the manner of the taking of the deposition, the form of questions or the answers thereto, the conduct of any party, or any error of a kind that might be obviated, removed or cured if timely raised, shall be deemed waived unless reasonable objection thereto is made at the deposition.

(d) Any error or irregularity in the manner in which the testimony is transcribed or the deposition is prepared, certified, transmitted, filed or otherwise dealt with by the

person taking the deposition shall be deemed waived unless a motion to strike all or a part of the said deposition is made with reasonable promptness after such error or irregularity is, or in the exercise of reasonable diligence should have been, ascertained.

(e) The deposition shall be transcribed, certified by the officer taking the same, and filed with the Clerk. Any party who contends that the transcript does not truly or fully disclose what transpired at the deposition shall file a notice with the Clerk specifying any alleged errors and omissions within ten (10) days of the filing of the deposition. If the parties are unable to agree concerning the alleged errors and omissions, the Hearing Officer shall set the matter down for hearing with notice to all parties and shall resolve the differences to make the record accurately conform to the truth.

(f) Documents and things produced for inspection during the examination of the witness shall, upon the request of a party, be marked for identification and annexed to, and returned with, the deposition, and may be inspected and copied by any party. Copies may be substituted for originals if each party is given an opportunity to compare the proffered copy with the original to verify its correctness.

(5) Application to take testimony by written questions shall be made and considered in the same manner as prescribed for depositions in paragraphs (1), (2) and (3) of this Rule. If the Hearing Officer orders the taking of testimony on written questions, each written question shall be answered separately and fully in writing under oath, unless objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers shall be signed by the person making them, and any objections shall be signed by the attorney making them.

(6) Subject to appropriate rulings on objections, a deposition or written questions and answers shall be received in evidence as if the testimony contained therein had been given by the witness before the Hearing Officer.

(7) Whenever used in this Rule, the word "witness" shall be construed, where appropriate, to include parties.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.18
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74, 50-13-13.
History. Original Rule entitled "Depositions and Written Questions to Secure Testimony" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.19. Nature of Proceedings.

(1) In any hearing conducted under the Act and these Rules, the Hearing Officer shall make an independent determination on the basis of the competent evidence presented at the hearing.

(2) Unless otherwise provided by federal or state statute or rule, the standard of proof on all issues in a hearing shall be a preponderance of the evidence.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.19
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Nature of Proceedings" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.20. Hearing Procedure.

(1) The Hearing Officer shall conduct a fair and impartial hearing, take action to avoid unnecessary delay in the disposition of the proceedings, and maintain order. For these purposes, the Hearing Officer may:

(a) Arrange for, and issue, notices of the date, time, and place of hearings and conferences;

(b) Establish the methods and procedures to be used in the development of the evidence;

(c) Hold conferences to settle, simplify, determine, or strike any of the issues in a hearing, or to consider other matters that may facilitate the expeditious disposition of the hearing;

(d) Administer oaths and affirmations;

(e) Regulate the course of the hearing and govern the conduct of the participants;

(f) Examine witnesses called by the parties;

(g) Rule on, admit, exclude, or limit evidence;

(h) Establish the time for filing motions, testimony, and other written evidence, exhibits, briefs, proposed findings of fact and conclusions of law, and other submissions;

(i) Rule on motions and other procedural matters before the Hearing Officer, including, but not limited to, motions to dismiss for lack of jurisdiction or motions for summary determination;

(j) Order that the hearing be conducted in stages;

(k) Allow cross-examination;

(l) Order that any information so entitled under applicable state or federal rule or statute be treated as confidential or privileged information and be accorded the degree of confidentiality required thereby;

(m) Reprimand, or exclude from the hearing, any person for any indecorous or improper conduct committed in the Hearing Officer's presence;

(n) Subpoena and examine any witnesses or evidence the Hearing Officer believes necessary for a full and complete record; and

(o) Take any action not inconsistent with the Act and these Rules or the APA for the maintenance of order at the hearing and for the expeditious, fair, and impartial conduct of the proceeding.

(2) When two or more parties have substantially similar interests and positions, the Hearing Officer may limit the number of attorneys or other party representatives who will be permitted to cross-examine and to argue motions and objections on behalf of those parties. Attorneys may, however, at the Hearing Officer's discretion, engage in cross-examination relevant to matters that, in the Hearing Officer's opinion, have not been adequately covered by previous cross-examination.

(3) Whenever any party raises issues under either the Georgia or United States Constitution, the sections of any laws or rules constitutionally challenged and any constitutional provisions such laws or rules are alleged to violate must be stated with specificity. In addition, an allegation of unconstitutionality must be supported by a statement either of the basis for the claim of unconstitutionality as a matter of law or of the facts under which the party alleges that the law or rule is unconstitutional as applied to the party. Although the Hearing Officer is not authorized to resolve constitutional challenges to statutes or rules, the Hearing Officer may, in the Hearing Officer's discretion, take evidence and make findings relating to such challenges.

(4) Any hearing that is required, or permitted, hereunder may be conducted by utilizing remote telephonic or electronic communications if the record reflects that all parties have consented to the conduct of the hearing by use of such communications or that the Hearing Officer has determined that such procedure will not jeopardize the rights of any party to the hearing.

(5) In proceedings before the Hearing Officer, if any party or an agent or employee of a party disobeys or resists any lawful order or process; or neglects to produce, after having been ordered to do so, any pertinent book, paper, or document; or refuses to appear after having been subpoenaed; or, upon appearing, refuses to take the oath or affirmation as a witness; or after taking the oath or affirmation, refuses to testify; or disobeys any other order issued by the Hearing Officer, any party may apply to, and the Hearing Officer shall certify the facts to, the Superior Court of the county where the offense is committed for

appropriate action, including a finding of contempt. In addition to or in lieu of said remedy, the Hearing Officer may impose sanctions against any party due to the disobedience or resistance of that party or hism her or its privy, including, but not limited to, striking the party's pleading, entering a summary order against the party, or take an appropriate adverse evidentiary inference.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.20
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74, 50-13-13, 50-13-15.
History. Original Rule entitled "Hearing Procedure" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.21. Record of Hearings.

(1) All intermediate rulings, orders, and notices issued by the Hearing Officer, all pleadings and motions, all recordings or transcripts of oral hearings or arguments, all written direct and rebuttal testimony, any other data, studies, reports, documentation, information and other written material of any kind submitted in the proceedings, a statement of matters officially noticed, all proposed findings, conclusions, and briefs and a Final Order of the Hearing Officer shall be a part of the hearing record and shall be available to the public, except as provided in any applicable federal or state statute or rule according confidentiality or privileged treatment, in the office of the Clerk as soon as received in that office.

(2) Evidentiary hearings shall be either stenographically reported verbatim or tape recorded. Upon written request, a transcript of any oral proceeding, or part thereof, shall be furnished to any party at the requesting party's expense.

(3) All documentary and physical evidence shall be retained by the Clerk.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.21
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74, 50-13-13, 50-13-17.
History. Original Rule entitled "Record of Hearings" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.22. Proposed Findings of Fact, Conclusions of Law, and Briefs.

At the conclusion of the hearing, the Hearing Officer may require the parties to submit proposed findings, conclusions, and briefs in support thereof. If required, the Hearing Officer shall specify the date by which the findings, conclusions, and briefs in support shall be filed with the Clerk and served on all parties. Reply briefs may be allowed in the sole discretion of the Hearing Officer.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.22
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.

History. Original Rule entitled "Proposed Findings of Fact, Conclusions of Law, and Briefs" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.23. Newly Discovered Evidence.

Prior to the entry of the Hearing Officer's final order, any party may move the Hearing Officer for an order allowing the introduction of additional, newly discovered evidence that was not discoverable in the exercise of reasonable diligence at the time of the hearing. If the Hearing Officer determines that such evidence is proper newly discovered evidence that may materially impact the decision to be rendered, the Hearing Officer shall hear and receive such evidence in the manner prescribed for the receipt of evidence by these Rules.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.23
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Newly Discovered Evidence" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.24. Closure of Hearing Record.

Except as provided in this Rule or unless otherwise ordered by the Hearing Officer, the record shall be closed at the conclusion of the evidentiary hearing. If the Hearing Officer requests the preparation of a transcript or requires or authorizes the filing of proposed findings of fact, conclusions of law, or post-hearing briefs, the record shall be deemed closed upon the receipt by the Clerk of the transcript or upon the expiration of the time allowed for the required or authorized filings, whichever date comes later.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.24
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Closure of Hearing Record" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.25. Final Order of the Hearing Officer.

The Hearing Officer shall review and evaluate all the evidence and any interlocutory rulings, and shall either rule orally from the bench, stating findings of fact, conclusions of law, and a decision or order in the record, or may issue and file written findings, conclusions, and a decision or order with the Clerk, who shall immediately serve copies upon all parties or their counsel of record. The Hearing Officer shall render his or her final order within the time provided by applicable state or federal statute or rule or, in any event, within thirty (30) days after the close of the record unless the Hearing Officer determines that the complexity of the issues or the length of the record require an order extending such period, in which event the Hearing Officer shall render a decision or final order at the earliest date practicable.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.25
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74, 50-13-17.
History. Original Rule entitled "Final Order of the Hearing Officer" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.26. Motions for Reconsideration or Rehearing; Stay of Decision.

(1) A motion for reconsideration or rehearing of a decision or final order will be considered only if the motion is filed within ten (10) days of the entry of the decision or final order. However, the time for filing such a motion may be extended by the Hearing Officer for good cause.

(2) The filing of such a motion shall not operate as a stay of enforcement of the Hearing Officer's decision or final order. But, the Hearing Officer may grant a stay upon appropriate terms, for good cause shown, if the Hearing Officer finds that the public safety and welfare will not be harmed by the issuance of a stay.

(3) The Hearing Officer shall not grant a motion for rehearing until after the expiration of the period for a response by any other party.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.26
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Motions for Reconsideration or Rehearing; Stay of Decision" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.27. Default.

(1) If a party fails to participate in any stage of a proceeding, fails to file any pleading required by the Hearing Officer under the Act or these Rules or any other applicable law or agency rule, or fails to comply with an order or subpoena issued by the Hearing Officer, the Hearing Officer, either on the Hearing Officer's own motion or on the motion of any party, may enter an order resulting in default against the offending party. Any such order shall specify the grounds for the order.

(2) Any default order may provide for a default as to all issues, a default as to specific issues, or other limitations, including limitations on the presentation of evidence and on the defaulting party's continued participation in the proceeding. In determining whether to enter a default and in considering the appropriate penalty for a default, the Hearing Officer shall give due regard for the interests of justice, the nature of the failure of the party in default, and the need for the orderly and prompt conduct of the proceeding.

(3) Within ten (10) days of the entry of a default order, the party against whom it was issued may file a written motion requesting that the order be vacated or modified and stating the

grounds for said motion. The Hearing Officer may allow a default to be opened where the failure of the party in default was the result of providential cause or excusable neglect or where the Hearing Officer, from all the facts, determines that a proper case has been made for the default to be opened on terms to be fixed by the Hearing Officer.

(4) After issuing a default order, the Hearing Officer shall conduct any further proceedings necessary to complete the proceeding without the participation of the party in default, or with such limited participation as determined appropriate under paragraph (2) of this Rule, and shall determine all issues in the proceeding, including those affecting the party in default.

(5) If a party fails to attend an evidentiary hearing after having been given written notice thereof, the Hearing Officer may proceed with the hearing in the absence of the party unless the absent party is the party who requested the hearing, in which case, the Hearing Officer may dismiss the action on the motion of any other party or on the Hearing Officer's own motion. Failure of a party to appear at the time set for hearing shall constitute a failure to attend unless excused by the Hearing Officer for good cause.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.27
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74, 50-13-13.
History. Original Rule entitled "Default" adopted. F. adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule of same title adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.28. Expedited Proceedings.

Whenever any hearing is required by law to be held pursuant to an expedited hearing schedule inconsistent with these Rules, or whenever the Hearing Officer, either on motion of any party or on the Hearing Officer's own motion, determines that an expedited hearing schedule is necessary to protect the interests of the parties or the public safety or welfare, the Hearing Officer shall require expedited filing of pleadings and shall conduct the hearing in such manner as justice requires.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.28
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Emergency and Expedited Proceedings" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled Expedited Proceedings" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.29. Appearance by Attorneys; Signing of Pleadings; Apperance Pro-Se.

(1) Except as authorized in paragraph (2) of this Rule, or where specifically authorized by an applicable federal or Georgia statute or rule, no person shall represent any party in a proceeding before the Hearing Officer unless the person is an active member in good

standing of the State Bar of Georgia and has filed an entry of appearance in the case in the attorney's individual name. An entry of appearance shall not be required if a pleading, motion, or other paper has previously been filed on the case by the attorney of record pursuant to paragraph (3) of this Rule.

(2) Nonresident attorneys who are not active members of the State Bar of Georgia may be permitted to appear before the Hearing Officer in isolated cases upon motion to, and in the discretion of, the Hearing Officer. A motion to appear in a particular case shall state that the movant is an active member in good standing of the bar of the jurisdiction in which the movant regularly practices and that the movant agrees to behave in accordance with the Georgia standards of professional conduct and the duties imposed upon attorneys by Code Section 15-19-4.

(3) Every pleading, motion, or other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. A party who is not represented by an attorney shall sign the party's pleadings and state the party's address. The signature of an attorney constitutes a certificate by the attorney that the attorney has read the pleading and that it is not interposed for any improper purpose, including, but not limited to, delay or harassment. If a pleading, motion, or other paper is signed in violation of this Rule, the Hearing Officer, upon motion of any party or upon the Hearing Officer's own motion, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, including, but not limited to, dismissal.

(4) Any individual party may appear at any proceeding under the Act pro se, on his or her own behalf, without representation by an attorney. Any party that is a legal entity may appear only through an attorney who is an active member in good standing of the State Bar of Georgia or authorized to appear pursuant to paragraph (2) of this Rule.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.29
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Appearance by Attorneys; Signing of Pleadings" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Appearance by Attorneys; Signing of Pleadings; Appearance Pro-Se" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.30. Involuntary Dismissal.

After a party with the burden of proof has completed the presentation of his, her, or its evidence, any other party, without waiving his, her, or its right to offer evidence in the event the motion is not granted, may move for dismissal on the ground that the party that has presented his, her, or its evidence has failed to carry his, her, or its burden to demonstrate his, her, or its right to some or all of the determinations sought by that party. The Hearing Officer may then determine the facts and render a Decision against the party that has presented its evidence as to any or all issues or may decline to render a decision until after the close of all the evidence.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.30
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Involuntary Dismissal" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Involuntary Dismissal" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.31. Discovery.

Discovery shall not be available in any proceeding before a Hearing Officer except to the extent specifically authorized by a statute or rule. Nothing in this Rule is intended to limit the provisions of Article 4 of Chapter 18 of Title 50.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.31
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Request for Agency Records" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Discovery" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.32. Continuances and Conflicts.

(1) All motions for continuances shall be granted only upon a showing of good cause and shall not be granted simply because the parties and/or their counsel agree thereto. Among other factors the Hearing Officer may consider in connection with a motion for continuance are the impact of the continuance upon any parties who do not consent to the motion, the Hearing Officer's calendar, the difficulty in rescheduling the hearing site, the need for an expeditious resolution of the matter(s) at issue, and the public safety and welfare. A notice of conflict filed pursuant to paragraph (2) below shall not be considered as a motion for a continuance unless the notice expressly requests a continuance.

(2) In the event an attorney has a conflict involving an appearance in another legal proceeding, the requirements of the Uniform Rules for the Superior Courts shall be followed.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.32
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Discovery" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: New Rule entitled "Continuances and Conflicts" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.33. Withdrawals and Leaves of Absence.

The withdrawal and leave of absence provisions of the Uniform Rules for the Superior Courts shall be followed.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.33
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16, 10-5-70, 10-5-71, 10-5-73, 10-5-74.
History. Original Rule entitled "Continuances and Conflicts" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Repealed: New Rule entitled "Withdrawals and Leaves of Absence" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-6-.34. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-6-.34
Authority: O.C.G.A. Secs. 10-5-10, 10-5-16.
History. Original Rule entitled "Withdrawals and Leaves of Absence" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Subject 590-4-7. REPEALED.

Rule 590-4-7-.01. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-7-.01
Authority: O.C.G.A. Secs. 10-5-10, 44-3-3, 44-3-6.
History. Original Rule entitled "Amendments to Property Report" adopted. F. Feb. 24, 1987; eff. Mar. 16, 1987.
Repealed: F. Dec. 13, 1990; eff. Jan. 2, 1991.
Amended: New Rule entitled "Securities Offerings on the Internet" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-7-.02. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-7-.02
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10.
History. Original Rule entitled "Internet Advertising by Dealers, Limited Dealers, Salespersons, Limited Salespersons, Investment Advisers, or Investment Adviser Representatives" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Subject 590-4-8. REPEALED.

Rule 590-4-8-.01. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.01
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10.
History. Original Rule entitled "Investment Adviser Registration Application" adopted as ER. 590-4-8-0.20-.01. F. Mar. 31, 1989; eff. Apr. 1, 1989, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. May 11, 1989; eff. June 1, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 19, 2002; eff. Jan. 8, 2003.
Repealed: New Rule entitled "Electronic Filing with Designated Entity" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.02. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.02
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10, 10-5-23.1.
History. Original Rule entitled "Investment Adviser Representative Registration Application" adopted as ER. 590-4-8-0.20-.02. F. Mar. 31, 1989; eff. Apr. 1, 1989, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. May 11, 1989; eff. June 1, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 19, 2002; eff. Jan. 8, 2003.
Repealed: New Rule entitled "Investment Adviser Registration" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.03. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.03
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10, 10-5-23.1.
History. Original Rule entitled "Fees for Registration and Applicants" adopted as ER. 590-4-8-0.20-.03. F. Mar. 31, 1989; eff. Apr. 1, 1989, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. May 11, 1989; eff. June 1, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 19, 2002; eff. Jan. 8, 2003.
Repealed: New Rule entitled "Investment Adviser Representative Registration" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.04. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.04
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10.
History. Original Rule entitled "Termination or Withdrawal of Registration" adopted as ER. 590-4-8-0.20-.04. F. Mar. 31, 1989; eff. Apr. 1, 1989, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. May 11, 1989; eff. June 1, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 19, 2002; eff. Jan. 8, 2003.
Repealed: New Rule entitled "Fees for Registration and Applicants" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.05. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.05
Authority: O.C.G.A. Secs. 10-5-3, 10-5-4, 10-5-10.
History. Original Rule entitled "Incomplete and Abandoned Applications" adopted as ER. 590-4-8-0.20-.05. F. Mar. 31, 1989; eff. Apr. 1, 1989, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. May 11, 1989; eff. June 1, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 19, 2002; eff. Jan. 8, 2003.
Repealed: New Rule entitled "Termination or Withdrawal of Registration" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.06. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.06
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10.
History. Original Rule entitled "Exemptions of Investment Advisers Registered as Dealers in Connection With the Provision of Certain Investment Advisory Services" adopted as ER. 590-4-8-0.20-.06. F. Mar. 31, 1989; eff. Apr. 1, 1989, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. May 11, 1989; eff. June 1, 1989, as specified by the Agency.
Repealed: New Rule entitled "Incomplete and Abandoned Applications" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.07. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.07
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10.
History. Original Rule entitled "Examinations" adopted as ER. 590-4-8-0.20-.07. F. Mar. 31, 1989; eff. Apr. 1, 1989, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. May 11, 1989; eff. June 1, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 19, 2002; eff. Jan. 8, 2003.
Repealed: New Rule entitled "Exemptions of Investment Advisers Registered as Dealers in Connection with the Provision of Certain Investment Advisory Services" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.08. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.08
Authority: O.C.G.A. Secs. 10-5-2, 10-5-3, 10-5-10.
History. Original Rule entitled "Books and Records to Be Maintained by Investment Advisers" adopted as ER. 590-4-8-0.20-.08. F. Mar. 31, 1989; eff. Apr. 1, 1989, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. May 11, 1989; eff. June 1, 1989, as specified by the Agency.
Amended: F. Sept. 27, 1990; eff. Oct. 17, 1990.
Repealed: New Rule of same title adopted. F. Dec. 19, 2002; eff. Jan. 8, 2003.
Repealed: New Rule entitled "Examinations" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.09. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.09
Authority: O.C.G.A. Secs. 10-5-2, 10-5-3, 10-5-10.
History. Original Rule entitled "Supervision of Investment Adviser Representatives and Employees" adopted as ER. 590-4-8-0.20-.09. F. Mar. 31, 1989; eff. Apr. 1, 1989, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. May 11, 1989; eff. June 1, 1989, as specified by the Agency.
Repealed: New Rule entitled "Books and Records to Be Maintained by Investment Advisers" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.10. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.10
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10.
History. Original Rule entitled "Written Disclosure Statements" adopted as ER. 590-4-8-0.20-.10. F. Mar. 31, 1989; eff. Apr. 1, 1989, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. May 11, 1989; eff. June 1, 1989, as specified by the Agency.
Repealed: New Rule entitled "Supervision of Investment Adviser Representatives and Employees" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.11. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.11
Authority: O.C.G.A. Secs. 10-5-2, 10-5-3, 10-5-10.
History. Original Rule entitled "Definition of "Client" of an Investment Adviser for Certain Purposes Relating to Limited Partnerships" adopted as ER. 590-4-8-0.20-.11. F. Mar. 31, 1989; eff. Apr. 1, 1989, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. May 11, 1989; eff. June 1, 1989, as specified by the Agency.
Amended: F. Sept. 27, 1990; eff. Oct. 17, 1990.
Repealed: New Rule entitled "Written Disclosure Statements" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.12. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.12
Authority: O.C.G.A. Secs. 10-5-2, 10-5-3, 10-5-10, 10-5-12.
History. Original Rule entitled "Performance-Based Compensation Exemption" adopted as ER. 590-4-8-0.20-.12. F. Mar. 31, 1989; eff. Apr. 1, 1989, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. May 11, 1989; eff. June 1, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 19, 2002; eff. Jan. 8, 2003.
Repealed: New Rule entitled "Definition of "Client" of an Investment Adviser" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.13. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.13
Authority: O.C.G.A. Secs. 10-5-10, 10-5-12.
History. Original Rule entitled "Certain Transactions Not Deemed Assignments" adopted as ER. 590-4-8-0.20-.13. F. Mar. 31, 1989; eff. Apr. 1, 1989, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. May 11, 1989; eff. June 1, 1989, as specified by the Agency.
Repealed: New Rule entitled "Performance-Based Compensation Exemption" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.14. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.14
Authority: O.C.G.A. Secs. 10-5-3, 10-5-4, 10-5-10.
History. Original Rule entitled "Financial Statements and Reporting Requirements for Investment Advisers" adopted as ER. 590-4-8-0.20-.14. F. Mar. 31, 1989; eff. Apr. 1, 1989, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. May 11, 1989; eff. June 1, 1989, as specified by the Agency.
Repealed: New Rule entitled "Certain Transactions Not Deemed Assignments" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.15. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.15
Authority: O.C.G.A. Secs. 10-5-3, 10-5-4, 10-5-10, 10-5-12.
History. Original Rule entitled "Custody or Possession of Funds or Securities of Clients" adopted as ER. 590-4-8-0.20-.15. F. Mar. 31, 1989; eff. Apr. 1, 1989, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. May 11, 1989; eff. June 1, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 19, 2002; eff. Jan. 8, 2003.
Repealed: New Rule entitled "Financial Statements and Reporting Requirements for Investment Advisers" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.16. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.16
Authority: O.C.G.A. Secs. 10-5-10, 10-5-12.
History. Original Rule entitled "Agency Cross Transaction for Advisory Clients" adopted as ER. 590-4-8-0.20-.16. F. Mar. 31, 1989; eff. Apr. 1, 1989, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. May 11, 1989; eff. June 1, 1989, as specified by the Agency.
Repealed: New Rule entitled "Custody of Client Funds or Securities by Investment Advisers" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.17. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.17
Authority: O.C.G.A. Secs. 10-5-10, 10-5-12.
History. Original Rule entitled "Dishonest or Unethical Practices" adopted as ER. 590-4-8-0.20-.17. F. Mar. 31, 1989; eff. Apr. 1, 1989, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. May 11, 1989; eff. June 1, 1989, as specified by the Agency.
Repealed: New Rule entitled "Agency Cross Transaction for Advisory Clients" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.18. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.18
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10, 10-5-12.

History. Original Rule entitled "Amendment of Registration Documents Filed by Investment Advisers and Investment Adviser Representatives" adopted as ER. 590-4-8-0.20-.18. F. Mar. 31, 1989; eff. Apr. 1, 1989, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. May 11, 1989; eff. June 1, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 19, 2002; eff. Jan. 8, 2003.
Repealed: New Rule entitled "Dishonest or Unethical Practices" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.19. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.19
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10, 10-5-23.1.
History. Original Rule entitled "Transition Schedule for Conversion to IARD" adopted. F. Dec. 19, 2002; eff. Jan. 8, 2003.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.20. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.20
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10.
History. Original Rule entitled "Notice of Filing Requirements for Federal Covered Advisers" adopted. F. Dec. 19, 2002; eff. Jan. 8, 2003.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.21. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.21
Authority: O.C.G.A. Sec. 10-5-10.
History. Original Rule entitled "Definitions" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.22. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.22
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10.
History. Original Rule entitled "Investment Advisers Switching to or from SEC Registration" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.23. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.23
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10.

History. Original Rule entitled "Proxy Voting" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.24. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.24
Authority: O.C.G.A. Secs. 10-5-3, 10-5-10.
History. Original Rule entitled "Investment Adviser Renewal Notices" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 590-4-8-.25. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-4-8-.25
Authority: O.C.G.A. Secs. 10-5-2, 10-5-3, 10-5-10.
History. Original Rule entitled "Multiple Registration" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.
Repealed: F. Nov. 18, 2011; eff. Dec. 8, 2011.

Subject 590-4-9. COMMODITIES.

Rule 590-4-9-.01. Definitions.

(1) As used herein, all citations to "the Act" or "Act" shall refer to the Georgia law regulating commodity contracts and options as set forth in Chapter 5A of Title 10 of the Official Code of Georgia Annotated, Code Section 10-5A-1*et seq*.

(2) As used herein, all references to "the Commissioner" or "Commissioner" mean the Commissioner of Securities of this State.

(3) As used herein, all references to "the Assistant Commissioner" or "Assistant Commissioner" mean the Assistant Commissioner of Securities of this State.

(4) As used herein, "commodity" shall include wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feed, butter, eggs, solanum taberosun (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice, and all other goods and articles, and all other services, rights, and interests in which contracts for future delivery are presently or in the future dealt in.

(5) As used herein, a "commodity contract" shall mean a contract for the purchase or sale of a commodity option or commodity for future delivery on, or subject to the rules of, a contract market or board of trade.

(6) As used herein,"commodity options dealer" shall mean a person that extends credit to, or that accepts cash, a security, or other property form, a customer of such person for the purchase or sale of an interest in a commodity option.

(7) As used herein,"commodity pool operator" shall mean any person engaged in a business which is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for delivery or commodity option on or subject to the rules of any contract market, but does not include such persons not within the intent of this definition or the Commissioner may specify by rule, regulation, or order.

Cite as Ga. Comp. R. & Regs. R. 590-4-9-.01
Authority: O.C.G.A. Sec. 10-5A-26.
History. Original Rule entitled "Definitions" adopted. F. June 10, 1988; eff. July 1, 1988, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Rule 590-4-9-.02. Jurisdiction.

(1) In accordance with the limitations, exclusions and conditions imposed by the Act, the Commissioner shall have jurisdiction with respect to accounts, agreements (including any transaction that is of the character of, or a commodity known to the trade as an "option," "privilege," "indemnity," "bid," "offer," "put," "call," "advance guaranty," or "decline guaranty"), and transactions involving contracts of sale of a commodity for future delivery, traded or executed on a contract market designated by the Commissioner or any other board of trade, exchange, or market, and transactions subject to regulation by the Commodity Futures Trading Commission pursuant to 7 U.S.C. § 23.

(2) To the extent that a commodity pool arrangement presents a security, such commodity pool and commodity pool operator shall be subject to the provisions of the Georgia Securities Act of 1973, as amended. (Code Section 10-5-1*et seq.*)

(3) Except as hereinabove provided, nothing contained in the Act shall supersede or limit the jurisdiction of the Commissioner under the Georgia Securities Act of 1973, as amended.

Cite as Ga. Comp. R. & Regs. R. 590-4-9-.02
Authority: O.C.G.A. Sec. 10-5A-8.
History. Original Rule entitled "Jurisdiction" adopted. F. June 10, 1988; eff. July 1, 1988, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Rule 590-4-9-.03. Delegation to Assistant Commissioner.

The Assistant Commissioner of Securities appointed by the Secretary of State, with the approval of the Governor, pursuant to Code Section 10-5A-10, is empowered to sign all documents, make all decisions and perform all acts under Code Section 10-5A-1*et seq.* as is the Commissioner of Securities. This power is to be exercised by the Assistant Commissioner of Securitiesconcurrently with the Commissioner of Securities and all acts of the Assistant Commissioner of Securities are of the same force and effect assuch acts would be if performed by the Commissioner of Securities.

Cite as Ga. Comp. R. & Regs. R. 590-4-9-.03
Authority: O.C.G.A. Sec. 10-5A-24.
History. Original Rule entitled "Delegation to Assistant Commissioner" adopted. F. June 10, 1988; eff. July 1, 1988, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Rule 590-4-9-.04. Administrative Declaratory Rulings; No-Action Letters; Informal Interpretations; Fees.

(1) Administrative declaratory rulings, no-action letters and informal interpretations shall be in accordance with Code Section 10-5-1*et seq.* and Rules and Regulations of the State of Georgia Chapter 590-4.

(2) The Commissioner may establish and charge fees for the issuance of any declaratory ruling, no-action letter, or informal interpretation.

Cite as Ga. Comp. R. & Regs. R. 590-4-9-.04
Authority: O.C.G.A. Sec. 10-5A-26.
History. Original Rule entitled "Administrative Declaratory Rulings; No-Action Letters; Informal Interpretations" adopted. F. June 10, 1988; eff. July 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Administrative Declaratory Rulings; No-Action Letters; Information Interpretations; Fees" adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Rule 590-4-9-.05. Petition for Adoption of Rules.

(1) Form of petition. Each petition for adoption of rules made pursuant to the Georgia Administrative Procedure Act shall be filed with the Commissioner in writing and shall state:

   (a) The name and address of the petitioner;

   (b) The full text of the rule requested to be amended or repealed; or the full text of the rule desired to be promulgated;

(c) A paragraphed statement of the reason such rule should be amended, repealed or promulgated, including a statement of all pertinent existing facts as to petitioner's interest in the matter;

(d) Citations of legal authorities, if any, that authorize, support, or require the action requested by petitioner. The petition shall be verified under oath by, or on proper behalf of, the petitioner.

(2) Proceeding on petition. Within thirty (30) days after receipt of the petition, the Commissioner shall either deny the petition in writing, stating the reasons for denial, or initiate rule-making or rule-changing proceedings in accordance with Code Section 50-13-4.

Cite as Ga. Comp. R. & Regs. R. 590-4-9-.05
Authority: O.C.G.A. Sec. 10-5A-26.
History. Original Rule entitled "Petition for Adoption of Rules" adopted. F. June 10, 1988; eff. July 1, 1988, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Rule 590-4-9-.06. Contested Cases.

Contested cases shall be heard by the Commissioner or his or her designated representative pursuant to the Georgia Administrative Procedure Act and shall be conducted in accordance with the procedures provided therein, procedures set forth in Code Sections 10-5-1*et seq.*, 10-5A-28 and the Rules and Regulations of the State of Georgia Chapter 590-4.

Cite as Ga. Comp. R. & Regs. R. 590-4-9-.06
Authority: O.C.G.A. Secs. 10-5A-26, 10-5A-28.
History. Original Rule entitled "Contested Cases" adopted. F. June 10, 1988; eff. July 1, 1988, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Rule 590-4-9-.07. Confidentiality of Investigations.

(1) Except as provided in the Act and these Rules and Regulations, all information and documents filed with, or obtained by, the Commissioner are public information and are available for public examination.

(2) The following information and documents do not constitute public information under the Act and these Rules and Regulations and shall be confidential:

(a) Information or documents obtained in connection with an investigation under Code Section 10-5-11;

(b) Documents prepared by the Commissioner's staff in connection with an investigation under Code Section 10-5-11 including subpoenas, notices to produce records, staff reports, and reports and summaries of investigations;

(c) Information or documents filed with the Commissioner in connection with a registration statement or exemption filing under the Act, which constitute or contain trade secrets or constitute or contain commercial or financial information, which the person is entitled to assert, and has asserted, a claim of confidentiality or privilege as authorized by law; and

(d) Any document or record specifically designated as confidential in accordance with the Act or the Rules and Regulations promulgated thereunder.

(3) All investigations and investigative proceedings shall be private, unless the Commissioner determines that the protection of the public requires that all or part of an investigation or investigative proceeding be made public.

(4) Any securities agency or law enforcement agency receiving information or documents pursuant to Code Section 10-5-11 must make the representation required by that Code Section in the form of an access letter. The access letter shall be addressed to the Commissioner and signed by someone at the requesting agency in a position to guarantee the aforementioned representation. Access letters and the Commissioner's response shall be deemed part of an investigative file and shall be confidential.

(5) The Commissioner may disclose information or documents obtained in connection with an investigation under the Act to the extent provided in the Act and these Rules and Regulations. The Commissioner may further disclose such information if disclosure is for the purpose of a civil, administrative, or criminal investigation or proceeding. Any securities agency or law enforcement agency receiving such information or documents must represent that, under the applicable law, protections exist to preserve the integrity, confidentiality, and security of the information.

(6) Notices and proposed administrative orders, administrative orders and public notices and investor alerts issued by the Commissioner shall constitute public information under the Act and these Rules and Regulations.

Cite as Ga. Comp. R. & Regs. R. 590-4-9-.07
Authority: O.C.G.A. Secs. 10-5A-26, 10-5A-28.
History. Original Rule entitled "Confidentiality of Investigations" adopted. F. June 10, 1988; eff. July 1, 1988, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Rule 590-4-9-.08. Records.

(1) All applications, records, correspondence, reports, and other documents filed with the Commissioner pursuant to the various provisions of the Act may be maintained in original form or by means of microfilm, microfiche, microphotographic reproduction, photographic reproduction, word processing, computerization, or other acceptable reproductive methods.

(2) All books, records, correspondence, reports, or other documents produced pursuant to a notice to produce document evidence (subpoena duces tecum) issued by the Commissioner may be destroyed by order of the Commissioner if a demand for return is not made by the person producing such records within three (3) years from the time the investigative file is closed.

(3) Any photographic, microphotographic, or computer reproduction of any original writing or record filed with or maintained by the Commissioner shall be deemed to have been made in the regular course of business. Such reproduction shall be subject to certification.

Cite as Ga. Comp. R. & Regs. R. 590-4-9-.08
Authority: O.C.G.A. Sec. 10-5A-26.
History. Original Rule entitled "Records" adopted. F. June 10, 1988; eff. July 1, 1988, as specified by the Agency. Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Rule 590-4-9-.09. Fees and Penalties.

(1) Every registration, renewal or other filing required pursuant to the Act or any Rule or Regulation promulgated thereunder shall be accompanied by the required fee, penalty fee or funds as required by the Act or the fee schedule established and maintained by the Secretary of State. All filing fees shall be immediately docketed into the automated database, by the staff of the Commissioner. Docketing of fees shall be for accounting and document control only and shall not constitute acceptance of the filing nor shall it imply that the applicant has met the filing requirements of the Act.

(2) No registration, renewal, or other filing required pursuant to the Act or any Rule shall be considered officially received by the Commissioner unless said documents are accompanied by the required fee or funds. Said fee or funds shall be received by the Commissioner or by a person designated by him or her.

(3) All fees and penalties are nonrefundable, unless specifically authorized by the Act and a written request for refund is received from the applicant.

(4) All filing fees and penalties assessed pursuant to the Act or the Rules and Regulations promulgated thereunder shall not be deemed to be paid unless payment is made in United States currency, certified funds, or until any check given for such fees or penalties has been paid by the financial institution upon which such check is drawn.

(5) The Commissioner may determine the imposition of any penalty provided for by the Act of the Rules and Regulations promulgated thereunder.

(6) The Commissioner shall publish a comprehensive list of filing fees, minimum service charges, service charges, penalties and other fees collected by the staff. Service charges may only be changed by the posting by the Commissioner of such changes in the public access area of the Division offices for a minimum of thirty (30) days prior to such changes being effective.

Cite as Ga. Comp. R. & Regs. R. 590-4-9-.09
Authority: O.C.G.A. Sec. 10-5A-26.
History. Original Rule entitled "Fees and Penalties" adopted. F. June 10, 1988; eff. July 1, 1988, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Rule 590-4-9-.10. Copies of Documents.

(1) The Commissioner shall provide certified copies of any document, instrument, data, or paper officially filed as available on the automated database, microfilm files or other records maintained by the Commissioner.

(2) The Commissioner is authorized to establish and impose minimum fees for the production and mailing of documents requested herein.

(3) The Commissioner shall publish and maintain a schedule of all fees and charges for documents and services provided. Service charges may only be changed by the posting by the Commissioner of such changes in the public access area of the Division offices for a minimum of thirty (30) days prior to such changes being effective.

(4) Expedited processing certificates may be obtained by submitting a written request explaining why such expedited processing is necessary and appropriate. The request for expedited processing must be accompanied by the payment of the fee published in the fee schedule maintained by the Commissioner. In the event expedited service is authorized, the documents, if available, and the certificate will be prepared and furnished immediately to the person making such request.

Cite as Ga. Comp. R. & Regs. R. 590-4-9-.10
Authority: O.C.G.A. Sec. 10-5A-26.
History. Original Rule entitled "Copies of Documents" adopted. F. June 10, 1988; eff. July 1, 1988, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Rule 590-4-9-.11. Requests for Information.

The Commissioner may accept, but is not required to accept, telephone or electronic requests for copies of documents and the certification of such documents.

Cite as Ga. Comp. R. & Regs. R. 590-4-9-.11
Authority: O.C.G.A. Sec. 10-5A-26.
History. Original Rule entitled "Requests for Information" adopted. F. June 10, 1988; eff. July 1, 1988, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Rule 590-4-9-.12. Payment of Charges.

All invoices for certificates and copies are due immediately upon receipt. Failure to pay the invoice may result in the matter being referred for collection.

Cite as Ga. Comp. R. & Regs. R. 590-4-9-.12
Authority: O.C.G.A. Sec. 10-5A-26.
History. Original Rule entitled "Payment of Charges" adopted. F. June 10, 1988; eff. July 1, 1988, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Rule 590-4-9-.13. Statement of Net Worth.

(1) For purposes of claiming exemption from the prohibitions contained in Code Section 10-5A-2, a person engaged in business as a bullion or precious metals dealer having and maintaining a net worth of at least $500,000.00 shall file with the Commissioner a sworn statement that such person meets the minimum net worth requirement and that such person will notify the Commissioner immediately in the event his or her net worth falls below $500,000.00.

(2) Said statement shall contain the name and address of the claimant as well as the name and address of a person located in this State and designated by the claimant as its agent for service of process in Georgia. The person submitting the sworn statement shall attach an audited financial statement (including balance sheet; income statement; and statement of cash flows) prepared in accordance with generally accepted accounting principles and accompanied by an auditor's report containing the opinion of an independent certified public accountant that the claimant has a net worth of at least $500,000.00. Said statement shall be accompanied by the published filing fee when submitted to the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 590-4-9-.13
Authority: O.C.G.A. Sec. 10-5A-3.
History. Original Rule entitled "Statement of Net Worth" adopted. F. June 10, 1988; eff. July 1, 1988, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 21, 2004; eff. Jan. 10, 2005.

Chapter 590-5. REPEALED.

Subject 590-5-1. REPEALED.

Rule 590-5-1-.01. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-5-1-.01
Authority: O.C.G.A. § 21-5-1 et seq., as amended.
History. Original Rule entitled "General Applicability" was filed as Emergency Rule 590-5-0.7-.01 on June 26, 1974; effective June 26, 1974 for 120 days, or until the adoption of a permanent Rule covering the same subject matter superseding said Emergency Rule as specified by the Agency.
Amended: Rule 590-5-.01 entitled "General Applicability" was filed November 14, 1974; effective December 4, 1974.
Amended: Rule amended by adding "Ga. L. 1975, p. 1120, et seq." Filed December 29, 1978; effective January 18, 1979.
Amended: Rule renumbered as 590-5-1-.01. Filed March 30, 1981; effective April 19, 1981.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Chapter 590-6. REPEALED.

Subject 590-6-1. REPEALED.

Rule 590-6-1-.01. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-1-.01
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Vision Statement" adopted. F. Aug. 9, 2006; eff. Aug. 29, 2006.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-1-.02. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-1-.02
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Legal Authority" adopted. F. Aug. 9, 2006; eff. Aug. 29, 2006.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-1-.03. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-1-.03
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Digital Records Acquisition and Transfer" adopted. F. Aug. 9, 2006; eff. Aug. 29, 2006.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-1-.04. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-1-.04
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Acceptable File Formats" adopted. F. Aug. 9, 2006; eff. Aug. 29, 2006.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-1-.05. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-1-.05
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Records Not Approved for Transfer" adopted. F. Aug. 9, 2006; eff. Aug. 29, 2006.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-1-.06. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-1-.06
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Restrictions on Access" adopted. F. Aug. 9, 2006; eff. Aug. 29, 2006.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-1-.07. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-1-.07
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Use of Extensible Markup Language (XML)" adopted. F. Aug. 9, 2006; eff. Aug. 29, 2006.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Subject 590-6-2. REPEALED.

Rule 590-6-2-.01. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-2-.01
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Legal Authority" adopted. F. Aug. 9, 2006; eff. Aug. 29, 2006.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-2-.02. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-2-.02
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Required Minimum Standards for Archival Storage and Preservation" adopted. F. Aug. 9, 2006; eff. Aug. 29, 2006.

Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-2-.03. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-2-.03
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Required Minimum Standards for Access to Archival Materials" adopted. F. Aug. 9, 2006; eff. Aug. 29, 2006.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Subject 590-6-3. REPEALED.

Rule 590-6-3-.01. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-3-.01
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Applicability" adopted. F. May 22, 2008; eff. June 11, 2008.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-3-.02. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-3-.02
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Legal Authority" adopted. F. May 22, 2008; eff. June 11, 2008.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-3-.03. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-3-.03
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Definitions" adopted. F. May 22, 2008; eff. June 11, 2008.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-3-.04. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-3-.04
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Conflicts with Local Building Codes" adopted. F. May 22, 2008; eff. June 11, 2008.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-3-.05. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-3-.05
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Site" adopted. F. May 22, 2008; eff. June 11, 2008.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-3-.06. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-3-.06
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Structure" adopted. F. May 22, 2008; eff. June 11, 2008.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-3-.07. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-3-.07
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Loading Dock" adopted. F. May 22, 2008; eff. June 11, 2008.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-3-.08. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-3-.08
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Shelving" adopted. F. May 22, 2008; eff. June 11, 2008.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-3-.09. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-3-.09
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Lighting" adopted. F. May 22, 2008; eff. June 11, 2008.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-3-.10. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-3-.10
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Security" adopted. F. May 22, 2008; eff. June 11, 2008.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-3-.11. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-3-.11
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Fire Detection and Suppression" adopted. F. May 22, 2008; eff. June 11, 2008.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-3-.12. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-3-.12
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Environmental Controls" adopted. F. May 22, 2008; eff. June 11, 2008.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-6-3-.13. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-6-3-.13
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Storage of Media Other Than Paper" adopted. F. May 22, 2008; eff. June 11, 2008.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Chapter 590-7. COMMISSIONER OF CORPORATIONS.

Subject 590-7-1. CORPORATIONS - RULES OF GENERAL APPLICABILITY.

Rule 590-7-1-.01. Definitions.

(1) **Active Corporation.** As used herein the term "active corporation" shall mean a corporation or foreign corporation that is on file with the Secretary of State and is in compliance with the filing requirements of the Code.

(2) **Annual Registration.** As used herein the term "annual registration" shall mean the filing required of each corporation and foreign corporation as set forth in the Code.

(3) **Applicant.** As used herein the term "applicant" shall mean any person making application to the Commissioner for any service provided or authorized by the Code.

(4) **Assistant Corporation Commissioner.** As used herein all references to the "Assistant Corporation Commissioner" shall mean the Assistant Corporation Commissioner appointed by the Secretary of State as the Director of the Corporations Division to oversee the administration of the Code as provided in O.C.G.A. Section 14-5-20.

(5) **Automated Database.** As used herein, all references to the "automated database" shall mean the database maintained on the electronic data processing equipment.

(6) **Certificate.** As used herein all references to "certificates" shall mean a form containing signatures of the Secretary of State and/or persons authorized by the Secretary of State, a date of filing and the printed or embossed seal of the State of Georgia. "Certificates" may also include the placing of a stamp on a document containing a time and date of filing and an acknowledgement of such filing. "Certificate" shall not mean share certificates or certificates which represent the shares of a corporation as provided for in O.C.G.A. Section 14-2-625.

(7) **Certificate of Incorporation.** As used herein all references to "Certificate of Incorporation" means the certificate issued by the Secretary of State certifying that articles of incorporation have been filed with the Secretary of State pursuant to the Code.

(8) **Code.** As used herein, all citations to "the Code" or "Code" refer to the Georgia Business Corporation Code, Georgia Nonprofit Corporation Code, Georgia Professional Corporation Act, Georgia Limited Liability Act, and other statutes set forth in Title 14 of the Official Code of Georgia Annotated, as amended.

(9) **Commissioner.** As used herein, all references to "Commissioner" or "Corporation Commissioner" shall mean the Secretary of State of the State of Georgia.

(10) **Corporate Service Organization.** As used herein a "corporate service organization" shall mean a person or entity, a substantial part of whose business is:

(a) Providing information concerning corporations to the public;

(b) Providing ministerial services to corporations to assist them in meeting the filing requirements of state and federal laws and regulations pertaining to such corporations; or

(c) Maintaining a commercial database available to the general public.

(11) **Corporation.** As used herein the term "corporation" or "domestic corporation" shall mean a corporation for profit or nonprofit, which is not a foreign corporation, organized under or subject to the provisions of Chapter 2 or Chapter 3 of Title 14 of the Code.

(12) **Depository.** As used herein, all references to "depository" shall mean a person, individual, organization, corporation or other entity designated by the Commissioner to accept filings, funds or other documents on his or her behalf and to perform certain ministerial services for the Corporations Division.

(13) **Division.** As used herein all references to "Division" shall mean the Corporations Division of the Office of the Secretary of State which is the division that is delegated the authority by the Secretary of State to administer the provisions of the Code.

(14) **Entity**. As used herein, the term "entity" includes corporation and foreign corporation, nonprofit corporation and foreign nonprofit corporation, professional corporation and foreign professional corporation, limited partnership and foreign limited partnership;

foreign limited liability partnership, and limited liability company and foreign limited liability company.

(15) **Existing Entity**. As used herein, the term "existing entity" shall mean a domestic or foreign profit corporation, nonprofit corporation, professional corporation, limited partnership, limited liability partnership, limited liability limited partnership, or limited liability company that is on file with the Secretary of State, is in compliance with the filing requirements of the Code, and has not been dissolved, cancelled, terminated, voided, administratively dissolved, merged out of existence, withdrawn, revoked, or placed in an inactive status.

(16) **Expedited Review or Expedited Processing.** As used herein the term "expedited review" or "expedited processing" shall mean a special processing of eligible filings or service requests prior to the processing of routine filings or service requests. These filings or service requests, if approved for expedited treatment, will be processed within the time frame of the requested level of expedited service.

(17) **Fee Schedule.** As used herein the term "fee schedule" shall mean the schedule published and maintained by the Commissioner clearly setting forth the fees and charges for documents and services provided by the Commissioner and the Division. The fees may only be changed by an amendment to the Code. Service charges may only be changed by the posting by the Commissioner of such changes in the public access area of the Division offices for a minimum of thirty (30) days prior to such change being effective.

(18) **Foreign Corporation.** As used herein the term "foreign corporation" shall mean a corporation for profit or nonprofit organized under a law other than the law of the state of Georgia.

(19) **Home State or Home Jurisdiction.** As used herein all references to a "home state" or "home jurisdiction" shall mean the state or country where a corporation has filed its articles of incorporation and has been issued a certificate of incorporation or such other document or acknowledgement evidencing the incorporation.

(20) **Individual.** As used herein the term "individual" means a natural person.

(21) **Legal Name.** As used herein the term "legal name" shall mean:

(a) For an individual, the legal name consists of the individual's first name and last name (or surname), without use of initials or nicknames, as it appears on the individual's birth certificate unless the individual's name has changed based on certain events, such as a marriage or a valid court order for a name change. Middle name(s), middle name initial(s), and/or suffixes may, but are not required to, be included in an individual's legal name.

(b) For foreign-born individuals, the legal name consists of the individual's name shown on his or her immigration document.

(c) For entities, the legal name consists of the entity's official name as it appears on the entity's formation document filed with the entity's home state, or any valid amendment thereof.

(22) **Name.** All references to the "name" of an individual in the Code and on the forms, applications, and other documents of the Division shall mean an individual's legal name as defined herein.

(23) **Name Certificate.** As used herein the term "name certificate" shall mean the document or confirmation number issued by the Commissioner establishing the availability of a name for use by a corporation.

(24) **Officer.** As used herein, the term "officer" shall mean an individual duly elected or appointed pursuant to the provisions of the Code to fill one or more offices of a corporation.

(25) **Person.** As used herein all references to "person" includes an individual and entity as defined by the Code.

(26) **Pickup.** As used herein the term "pickup" shall mean a request by the applicant to pick up processed documents from the Office of the Secretary of State rather than having documents sent by United States mail, electronic mail, or other commercial delivery service.

(27) **Proposed Entity Name**. As used herein, the term "proposed entity name" shall mean:

(a) The name of an entity contained in articles of incorporation, articles of organization, certificate of limited partnership, application for certificate of authority, or an application for name reservation with the Secretary of State; or

(b) The name of an entity contained in articles of amendment, restated articles of incorporation, restated articles of organization, certificate of amendment, articles or certificate of merger, articles or certificate of share exchange, certificate of conversion, application for reinstatement, application for reinstatement or reactivation from inactive status, or application for amended certificate of authority submitted to the Secretary of State for filing, if that name is different than the existing name of the entity or foreign entity on file and of record with the Secretary of State.

(28) **Rule.** As used herein all references to "Rule" or "the Rules" shall mean the rules as they appear in the "Official Compilation, Rules and Regulations of the State of Georgia" as compiled and printed by the Secretary of State pursuant to the Georgia Administrative Procedure Act, O.C.G.A. §§ 50-13-1*et seq.*

(29) **Secretary of State.** As used herein all references to the "Secretary of State" shall mean the Secretary of State of the State of Georgia. The terms "Commissioner" and "Secretary of State" shall both refer to the Secretary of State of the State of Georgia.

(30) **Sign or Signature.** As used herein all references to "Sign" or "Signature" includes any manual, facsimile, conformed, or electronic signature.

(31) **Year.** As used herein, the term "year" shall mean a calendar year. A calendar year is the one-year period that begins on January 1 and ends on December 31.

Cite as Ga. Comp. R. & Regs. R. 590-7-1-.01
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Definitions" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: New title "Definitions. Amended." F. Jan. 3, 2013; eff. Jan. 23, 2013.
Amended: F. Oct. 3, 2016; eff. Oct. 23, 2016.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.
Amended: F. July 23, 2019; eff. August 12, 2019.

Rule 590-7-1-.02. Delegation to Assistant Corporation Commissioner.

The Assistant Corporation Commissioner is empowered to sign all documents, make all decisions and perform all acts under the Code as is the Corporation Commissioner. This power may be exercised by the Assistant Corporation Commissioner concurrently with the Corporation Commissioner and all acts of the Assistant Corporation Commissioner are of the same force and effect as such acts would be if performed by the Corporation Commissioner.

Cite as Ga. Comp. R. & Regs. R. 590-7-1-.02
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Delegation to Assistant Commissioner" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: New title "Delegation to Assistant Corporation Commissioner." F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-1-.03. Administrative Declaratory Rulings; Informal Interpretations.

(1) Declaratory Rulings.

(a) Availability. Any person whose legal rights will be interfered with or impaired by the application by the Commissioner of any statutory provision or any rule or order of the Commissioner may petition the Commissioner and request a declaratory ruling therein. The Commissioner will not render advisory opinions, resolve questions which have become moot or are abstract, hypothetical, or otherwise act hereunder except with respect to such actual controversies or other

cases upon which a superior court would be required to act under the Georgia declaratory judgment statutes as construed by the appellate courts of Georgia.

(b) Form of Petition. Each such petition shall be filed with the Commissioner in writing and shall state:

1. the name and mailing address of the petitioner;

2. the full text of the statute, rule, or order upon which a ruling is requested;

3. a paragraphed statement of all pertinent and existing facts necessary to a determination of the applicability of the quoted statute or rule;

4. the petitioner's contention, if any, as to the aforesaid applicability with citation of legal authorities, if any, which authorize, support, or require a decision in accordance therewith; and

5. a statement setting forth in detail the petitioner's interest in the matter and why and how the petitioner is uncertain or insecure with respect to his rights. The petition shall be verified under oath by, or in proper behalf of, the petitioner.

(c) Proceedings on Petition. If the Commissioner shall determine that a decision can be rendered on the face of the petition without further proceedings, he shall render a summary decision thereon. Otherwise, all parties known by the Commissioner to have a legal interest in the matter shall be notified and given an opportunity to be head in an informal hearing.

(2) Informal Interpretations. Any request presented in any manner other than in accordance with the provisions of paragraph (1) above shall not be deemed to be filed as a petition for declaratory ruling and shall be dealt with in any manner that the Commissioner may deem appropriate.

Cite as Ga. Comp. R. & Regs. R. 590-7-1-.03
Authority: O.C.G.A. Secs. 14-2-390, 14-5-23.
History. Original Rule entitled "Administrative Declaratory Rulings; Informal Interpretations" was filed on June 10, 1987; effective June 30, 1987.

Rule 590-7-1-.04. Petition for Adoption of Rules.

(1) Form of petition. Each petition for adoption of rules made pursuant to the Georgia Administrative Procedure Act shall be filed with the Commissioner in writing and shall state:

(a) The name and mailing address of the petitioner;

(b) The full text of the rule requested to be amended or repealed, or the full text of the rule desired to be promulgated;

(c) A paragraphed statement of the reasons such rule should be amended, repealed or promulgated, including a statement of all pertinent existing facts as to petitioner's interest in the matter; and;

(d) Citations of legal authorities, if any, which authorize, support, or require the action requested by petitioner. The petition should be verified under oath by, or on behalf of, the petitioner.

(2) Proceeding on petition. Upon receipt of the petition, the Commissioner shall decide upon the action to be taken. Within sixty (60) days after receipt of the petition, the Commissioner shall inform the petitioner by mail of the decision reached and shall either decline to take the action requested, stating his reasons for so declining, or shall initiate rule-making or rule-changing proceedings in accordance with the Georgia Administrative Procedure Act.

Cite as Ga. Comp. R. & Regs. R. 590-7-1-.04
Authority: O.C.G.A. Secs. 14-2-390, 14-5-23.
History. Original Rule entitled "Petition for the Adoption of Rules" was filed on June 10, 1987; effective June 30, 1987.

Rule 590-7-1-.05. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-7-1-.05
Authority: O.C.G.A. Secs. 14-5-23, 14-5-130.
History. Original Rule entitled "Contested Cases" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Repealed: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.

Rule 590-7-1-.06. Records.

(1) All applications, articles of incorporations, dissolutions, amendments, annual registrations, records, and other documents filed with the Commissioner pursuant to the various provisions of the Code shall be printed or typed on white paper with blue or black ink only, and said paper shall not exceed letter size measurements of 8 1/2" by 11".

(2) All applications, articles of incorporations, dissolutions, amendments, annual registrations, records, and other documents filed with the Commissioner pursuant to the various provisions of the Code may be maintained in original form or by means of

microfilm, microfiche, microphotographic reproduction, photographic reproduction, word processing, computerization, optical disk, electronic disk or diskette storage or other acceptable reproductive methods.

(3) The Commissioner, after verification of the corporate documents to the automated database maintained by the Commissioner, may rely on such automated database for the purpose of providing corporate information, certifications, and the issuance of corporate name certificates.

(4) The Commissioner will maintain active records of corporate annual registrations for a period of five (5) years and will provide information from, and copies of, such annual registrations during such period. The Commissioner shall not provide information from or copies of annual registrations on file for more than five (5) years.

(5) The Commissioner shall maintain the integrity of the automated database in accordance with standards prescribed by the Georgia Department of Administrative Services (DOAS) and Georgia laws. In the event of a malfunction on the electronic equipment, or errors in the software programs, the Commissioner shall not be liable for the release of incorrect corporate data or the issuance of a corporate name certificate that is not distinguishable from another corporation filed pursuant to the Code.

(6) Any photographic, microphotographic, optical disk, or computer reproduction of any original writing or record filed with or maintained by the Commissioner or by a Records Depository approved by the Commissioner shall be deemed to have been made in the regular course of business. Such reproduction shall be subject to certification pursuant to the Code.

Cite as Ga. Comp. R. & Regs. R. 590-7-1-.06
Authority: O.C.G.A. Secs. 14-5-23, 14-5-130.
History. Original Rule entitled "Records" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.

Rule 590-7-1-.07. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-7-1-.07
Authority: O.C.G.A. Secs. 14-2-13, 14-5-23.
History. Original Rule entitled "Records" filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Repealed: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.

Rule 590-7-1-.08. Fees, Penalties, and Charges.

(1) Every registration, annual registration, or other filing required or permitted pursuant to the Code or any Rule or Regulation promulgated thereunder shall be accompanied by the

required fee, penalty fee or funds as required by the Code. All filing fees shall be immediately docketed into the automated database by the staff of the Commissioner. Docketing of the filing fees shall be for accounting and document control only and shall not constitute acceptance of the filing nor shall it imply that the applicant has met the filing requirements of the Code.

(2) No registration, annual registration, or other filing required pursuant to the Code or any Rule shall be considered officially received by the Commissioner unless said documents are accompanied by the required fee or funds. Said fee or funds shall be received by the Commissioner or by a person designated by him.

(3) All fees and penalties are nonrefundable unless specifically authorized by the Commissioner or Assistant Corporation Commissioner and a written request for refund is received from the applicant.

(4) All fees and penalties are nontransferable unless specifically authorized by the Commissioner or Assistant Corporation Commissioner.

(5) All filing fees and penalties assessed pursuant to the Code or the Rules and Regulations promulgated thereunder shall not be deemed to be paid unless payment is made in United States currency, certified funds, or until any check given for such fees or penalties has been paid by the financial institution upon which such check is drawn.

(6) Fees paid by check or money order shall have the name of the proposed entity or, in the case of a filed entity, the filed entity's name or control number written on it.

(7) The Commissioner may determine the imposition of any penalty provided for by the Code or the Rules and Regulations promulgated thereunder.

(8) The Commissioner shall publish a comprehensive list of filing fees, minimum service charges, service charges, penalties and other fees collected by the staff. Service charges may only be changed by the posting by the Commissioner of such changes in the public access area of the Division offices for a minimum of thirty (30) days prior to such changes being effective.

(9) All invoices for certificates, copies, or other charges are due immediately upon receipt. Failure to pay the invoice may result in the invoice being referred for collection and in any future payment being accepted only if submitted by cashier's check or United States Postal Service money order.

(10) The Secretary of State may impose service charges in order for persons to have the ability to make electronic filings into, the automated database. Such charges shall be posted on the fee schedule prepared and maintained by the Secretary of State.

(11) The Secretary of State may impose service charges for the filing of documents in paper format. Such charges shall be posted on the fee schedule prepared and maintained by the Secretary of State.

(12) No filing will be accepted by the Secretary of State without the payment of any past due fees, service charges, or penalties assessed pursuant to the Code or the rules promulgated thereunder.

Cite as Ga. Comp. R. & Regs. R. 590-7-1-.08
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Fees and Penalties" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: ER. 590-7-1-0.21-.08 adopted. F. Jul. 1, 1989; eff. July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Amended: Permanent Rule adopted. F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Aug. 3, 2011; eff. Aug. 23, 2011.
Repealed: New Rule with same title adopted. F. Sep. 30, 2011; eff. Oct. 20, 2011.
Amended: New title "Fees, Penalties, and Charges." F. Nov. 26, 2018; eff. Dec. 16, 2018.
Amended: F. July 23, 2019; eff. August 12, 2019.

Rule 590-7-1-.09. Expedited Processing.

(1) Counter pickups of documents and certificates shall not be allowed unless expedited processing is requested and approved.

(2) Expedited processing of filings and the issuance of certificates will be provided if the applicant provides the Commissioner a request for expedited processing and the request is accompanied by the payment of charges listed in the fee schedule published and maintained by the Commissioner, in addition to the applicable filing or service fee.

(3) For filings submitted to the Division by mail, the expedited processing fee shall be paid by United States Postal Service money order, certified check, or cashier's check. For filings hand-delivered to the Division, the expedited processing fee shall be paid by United States Postal Service money order, certified check, or cashier's check, or by a credit card accepted by the Division. For filings electronically transmitted to the Division, the expedited processing fee shall be paid by a credit card accepted by the Division.

(4) The Commissioner will provide expedited processing if he or she determines the request to be valid and in proper form. An expedited request will be considered to have been completed when the filing has been accepted or rejected for filing and supporting documentation has been forwarded to the filer. An expedited request for the issuance of certificates will be considered to have been completed when the certificate request is processed or rejected and supporting documentation has been forwarded to the applicant.

Cite as Ga. Comp. R. & Regs. R. 590-7-1-.09
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Expedited Processing" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Sep. 30, 2013; eff. Oct. 20, 2013.

Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-1-.10. Dishonored Payments.

(1) Checks or other forms of payment returned to the Commissioner because of nonpayment and/or charge backs of credit card or debit card payments (hereinafter referred to as the "dishonored" or "dishonored payment") shall be processed according to the following procedures:

(a) **Pending Filings**.

1. The filing and/or the entity for which the filing was made shall be placed in "pending," "hold," or similar status and the nonpayment of fees noted upon the records of the Secretary of State;

2. A notice of nonpayment demanding immediate payment shall be issued to the entity or person who submitted the payment;

3. If payment is not received within sixty (60) calendar days from the date of notice of nonpayment, the filing will be deemed abandoned as provided in Rule 590-7-3-.06(3); and

4. If the filing is deemed abandoned, all records pertaining to the filing will be destroyed and a new filing, including the payment of filing fees, shall be required. Any filing fees submitted with the new filing may be required to be paid by cashier's check or United States Postal Service money order.

(b) **Completed Filings**.

1. The entity for which the filing was made shall be deemed to be not in good standing by the Secretary of State. The records of the entity maintained by the Secretary of State shall be marked to show such status and to show the nonpayment of fees;

2. A notice of nonpayment demanding immediate payment and stating that possible grounds exist for administrative dissolution or revocation shall be issued to the corporation or person who submitted payment;

3. If payment is not received within sixty (60) calendar days from the date of the notice of nonpayment, written notice shall be issued stating the Commissioner's intent to administratively dissolve or revoke the entity and the grounds therefore. A copy of the notice of nonpayment may be attached to the notice of intent to administratively dissolve or revoke and mailed to the entity at the last known address of its principal office or registered agent; and

4. If payment is not received sixty (60) calendar days from the date of the notice of intent to administratively dissolve or revoke, the entity shall be administratively dissolved or revoked in accordance with Title 14 of the Official Code of Georgia Annotated.

(c) **Annual Registration**.

1. The entity for which the annual registration was submitted shall be deemed to be not in good standing by the Secretary of State. The records shall be marked to show such status and to show nonpayment of fees due;

2. A notice of nonpayment demanding immediate payment and stating that possible grounds exist for administrative dissolution or revocation shall be issued to the entity or person who submitted payment; and

3. If payment is not received within sixty (60) calendar days from the date of the notice of nonpayment, written notice shall be issued stating the Commissioner's intent to administratively dissolve or revoke the corporation and the grounds therefore. A copy of the notice of nonpayment may be attached to the notice of intent to administratively dissolve or revoke and mailed to the corporation at the last known address of its principal office or registered agent; and

4. If payment is not received sixty (60) calendar days from the date of the notice of intent to administratively dissolve or revoke, the entity shall be administratively dissolved or revoked in accordance with Title 14 of the Official Code of Georgia Annotated.

(d) **Services**.

1. The records of the Secretary of State for the corporation or person which requested the services shall be marked to reflect nonpayment for the services performed;

2. A notice of nonpayment demanding immediate payment shall be issued to the corporation or person who submitted payment;

3. If payment is not received within thirty (30) calendar days from the date of notice of nonpayment, a second notice will be issued to the entity or person who requested the service. The notice shall state that if payment is not made immediately, all payments for services, fees and filings submitted by the entity or person shall be required to be made by cashier's check or United States Postal Service money order.

(2) Payments tendered for returned checks which are also dishonored shall be redeemed by cashier's check or United States Postal Service money order only. Subsequent requests for services or subsequently submitted filings shall be accompanied by cashier's check or United States Postal Service money order.

(3) The Commissioner may require the payment of any service charge in addition to the amount owed as a result of any dishonored payment. Such service charge shall be published in the fee schedule maintained by the Commissioner.

(4) The records of the Secretary of State may be marked to show nonpayment status for any entity or person that has submitted payment which has been dishonored. The issuance of a Certificate of Existence or a statement of good standing regarding the entity may be denied by the Commissioner until full payment has been made.

Cite as Ga. Comp. R. & Regs. R. 590-7-1-.10
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Dishonored Checks" adopted. F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Repealed: New Rule entitled "Dishonored Payments" adopted. F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-1-.11. Compliance with Filing Requirements.

(1) Any corporation or foreign corporation that files for voluntary dissolution, withdrawal, or merger out of existence between January 1 and April 1 of any year must file an annual registration for that calendar year and pay the required fees.

(2) Any corporate document or transaction that is filed after April 1 of a calendar year must be accompanied by any currently or previously due annual registration, including the initial annual registration required by law to be filed by newly formed corporations.

(3) A corporate filing made by a Georgia corporation within 90 days of its date of incorporation must have an initial annual registration on file, as required by the Code, before the corporate filing will be processed.

(4) Articles of incorporation that are submitted for filing by an entity converting to or electing to become a corporation shall not be accepted by the Secretary of State unless said entity has paid all fees and penalties required by the Code and the Rules, including annual registration fees.

Cite as Ga. Comp. R. & Regs. R. 590-7-1-.11
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Filing of Corporate Documents" adopted. F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Repealed: New Rule, same title adopted. F. Jul. 1, 1993; eff. July 21, 1993.

Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Amended: New title "Compliance with Filing Requirements." F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-1-.12. Nonprofit Corporation Filings.

(1) All filings submitted by any domestic or foreign nonprofit corporation pursuant to the Georgia Nonprofit Corporation Code shall be received and processed in accordance with the procedures established by the Secretary of State regarding filings made pursuant to the Georgia Business Corporation Code unless the Georgia Nonprofit Corporation Code shall require otherwise.

(2) Any documents submitted for filing with the Secretary of State pursuant to the Georgia Nonprofit Corporation Code which require prior approval or notice of the corporate action to be given by the nonprofit corporation to the Attorney General or any other person may contain a statement that such prior notice or approval has been given. If such a statement is not included, the nonprofit corporation shall file a written statement with the Secretary of State which states whether or not prior notice or approval was required to be given under the Code and whether said notice or approval was in fact given.

Cite as Ga. Comp. R. & Regs. R. 590-7-1-.12
Authority: O.C.G.A. Secs. 14-3-130, 14-5-23.
History. Original Rule entitled "Nonprofit Corporation Filings" adopted. F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."

Rule 590-7-1-.13. Refunds.

(1) Notwithstanding Rule 590-7-1-.01, and for purposes of this Rule only, an "applicant" shall mean the party who submits a written request for refund to the Commissioner and is the original payor, the proper legal entity of the original payor, or its legally authorized representative.

(2) An applicant shall be refunded all fees in an amount which has been determined to have been paid in error, less deduction of an amount as otherwise provided in this Rule. Payment of any refund amount shall be made interest free. Each request shall be made in writing and submitted in a manner as required by the Commissioner and shall contain such information as the Commissioner may deem as reasonably necessary, which may include applicant's name, date of request, applicant's contact information, reason for refund, original amount paid and signature. All requests for refund must be made by the applicant or an authorized representative. It is the sole responsibility of the applicant to provide all documentation supporting the request for refund.

(3) For request for refund to be valid, it must be complete with all supporting documents and submitted within six (6) months of the date of the original payment. No request for refund that is incomplete with missing information or supporting documentation or that is made

beyond the expiration of six (6) months following the date of the original payment shall be processed.

(4) All completed refund requests shall be processed by the Commissioner, or his or her delegate, and shall be submitted for review and payment as soon as reasonably possible following receipt of the completed request. Notwithstanding the foregoing, the Commissioner may initiate the refund process in the event that a billing error is discovered in absence of an applicant's request for refund.

(5) Upon review of the request for refund and supporting documentation, the Commissioner may authorize payment of the requested amount, refund a lesser amount, or reject the request if the facts of the matter support such a conclusion.

(6) In the event there is an outstanding balance of unpaid fees owed by the applicant, the Commissioner is authorized to offset any refund amounts as payment for such unpaid fees and any costs.

(7) All refunds must be made payable in the name of the original applicant.

(8) Once a refund is paid to an applicant, the matter shall be considered final and the Commissioner shall not accept any new request for refund relating to the same matter.

Cite as Ga. Comp. R. & Regs. R. 590-7-1-.13
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Refunds" adopted. F. Aug. 3, 2011; eff. Aug. 23, 2011.
Amended: F. Oct. 3, 2016; eff. Oct. 23, 2016.

Rule 590-7-1-.14. Registered Office and Registered Agent.

(1) **Registered Office.** The registered office must be a street address in Georgia where service of process may be served on the registered agent. The registered office address may not be a post office box, post office drawer, mail drop, or rural route, unless the address is also accompanied by a physical address of the exact location of the registered office where the registered agent can be personally served with process. The registered office may, but need not be, the corporation's principal office or its place of business.

(2) **Registered Agent.** The legal name of the registered agent at the registered office of the corporation shall be provided to the Secretary of State. An entity may not serve as its own registered agent.

(3) **Unauthorized Appointment of Registered Agent.** A person listed on the records of the Secretary of State as the registered agent for an entity without that person's consent or authorization may file a Notice of Unauthorized Appointment of Registered Agent with the Secretary of State on a form provided by the Division. There is no fee for filing a Notice of Unauthorized Appointment of Registered Agent. If the Notice of Unauthorized

Appointment of Registered Agent is accepted for filing by the Secretary of State, then the filed notice will be added to records of the entity maintained by the Secretary of State, the entity's registered office and registered agent information maintained on the Division's automated database will be updated accordingly, and the Division may send notification of the filing to the entity by mail or electronic methods, such as email.

Cite as Ga. Comp. R. & Regs. R. 590-7-1-.14
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Registered Office and Registered Agent" adopted. F. Nov. 26, 2018; eff. Dec. 16, 2018.

Subject 590-7-2. CORPORATE NAME.

Rule 590-7-2-.01. Method of Reserving Corporate Name.

(1) A corporate name may be reserved by any person pursuant to the Georgia Business Corporation Code, Georgia Nonprofit Corporation Code, Georgia Professional Corporation Act, Georgia Revised Uniform Limited Partnership Act, Georgia Limited Liability Company Act, or any other statute providing for filing of business names with the Secretary of State.

(2) A corporate name may be reserved pursuant to the Code in the following manner:

(a) By delivering an application for name reservation to the Secretary of State, Corporations Division, 2 Martin Luther King Jr. Drive, Suite 313 West Tower, Atlanta, Georgia 30334;

(b) By mailing an application for name reservation to the Secretary of State at the address referred to in paragraph (2)(a) above; or

(c) By electronic transmission in the manner authorized by the Division on its website.

(3) An application for reservation of a corporate name shall be accompanied by the fee specified in the Code.

Cite as Ga. Comp. R. & Regs. R. 590-7-2-.01
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Method of Reserving Corporate Name" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: ER, 590-7-2-0.22-.01 adopted. F. Jul. 7, 1989, eff. July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Amended: Permanent Rule adopted F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: New title "Method of Reserving Corporate Name." F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-2-.02. Corporate Name.

(1) The name of a domestic corporation or foreign corporation:

(a) Must be in compliance with the provisions of the Code;

(b) Must consist of only English alphabet letters, Arabic numerals, Roman numerals, and symbols and special characters capable of being reproduced on a standard English (U.S.) keyboard;

(c) Must not contain any words which indicate that the corporation is organized other than as a corporation. Words which shall not be used in the name of a corporation include "limited liability company","limited partnership," "limited liability partnership," "limited liability limited partnership," and any abbreviation of such words; and

(d) Must not contain the acronym "DBA" or any variations of such acronym.

Cite as Ga. Comp. R. & Regs. R. 590-7-2-.02
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Telephone Inquiries" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: New title "Corporate Name." F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-2-.03. Issuance of Name Reservation Certificate.

(1) Following application for a name reservation by any means available, if the name appears to be available, it will be reserved and a name certificate will be promptly sent by mail or by electronic methods, such as email, to the applicant. The applicant may not pick up a name certificate from the Division unless expedited processing is requested and authorized.

(2) A name reservation shall be valid for a nonrenewable period of thirty (30) days from the date of issuance of the name certificate.

(3) Within the thirty (30) day name reservation period, an applicant filing articles of incorporation, articles of amendment with a name change, or other similar document, may provide the Secretary of State with a name certificate or certification of the availability of a corporate name. The Secretary of State may accept a certification, verification, or confirmation number in lieu of a name certificate, provided the Secretary of State's records reveal that the name was reserved by the applicant.

(4) A name reservation may be transferred only by a signed written notice that complies with the requirements of the Code.

Cite as Ga. Comp. R. & Regs. R. 590-7-2-.03
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Issuance of Name Reservation Certificate" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: ER. 590-7-2-0.22-.03 adopted. F. Jul. 7, 1989; eff. July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Amended: Permanent Rule adopted. F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990 as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-2-.04. Distinguishable Names.

The Commissioner will deny a request for a name certificate or proposed entity name if such requested name is identical to or not distinguishable from the name of any existing entity or active name reservation on file and of record with the Commissioner pursuant to Title 14 of the Code. Without limiting the discretion of the Commissioner to determine that a name is not distinguishable, a requested name shall be deemed "not distinguishable" from an existing entity name or active name reservation if the difference between the names results from any one or more of the following:

(a) An article (e.g. "a," "an," "the");

(b) Plural or possessive forms of the same word;

(c) Phonetic spelling of the same name or word;

(d) A conjunction or disjunction (e.g. "and," "&," "or");

(e) An abbreviation in place of a complete spelling of the word or name;

(f) A suffix added to a word or any other deviation from or derivative of the same word;

(g) A change in a word or name indicating corporate or business entity status;

(h) The addition or omission of punctuation, symbols, special characters, or spaces;

(i) A symbol or special character in place of a word or name (e.g. "and" and "&"; "at" and "@"); and

(j) A numerical number in Arabic or Roman numeral(s) and the same number spelled out with letters of the alphabet.

Cite as Ga. Comp. R. & Regs. R. 590-7-2-.04
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Distinguishable Names" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-2-.05. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-7-2-.05
Authority: O.C.G.A. Secs. 14-2-41, 14-2-371, 14-2-390, 14-5-23, 14-2-402.
History. Original Rule entitled "Renewal of Name Reservation Certificate" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Repealed: ER. 590-7-2-0.22-.05 adopted. F. Jul. 7, 1989; eff. July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Repealed: F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.

Rule 590-7-2-.06. Contested Cases.

(1) The Commissioner is not authorized to intervene in a private name infringement action. The Commissioner may provide certified copies of any public document filed pursuant to the Code and the rules promulgated thereunder.

(2) The Commissioner may, prior to the issuance of a certificate of incorporation or a certificate of authority, revoke a name certificate if the name certificate is issued for a name which is not distinguishable from the name of another entity filed with the Commissioner or the name contains any word whose use is restricted by any provision of the Code and rules promulgated thereunder.

(3) In the event that a certificate of incorporation or a certificate of authority has been issued by the Commissioner and the name is not distinguishable from the name of another entity filed with the Commissioner under Title 14 of the Official Code of Georgia Annotated or the name contains any word whose use is restricted by any provision of the Code or rules promulgated thereunder, the following actions may be taken:

   (a) The Commissioner may issue an order directing the corporation to file articles of correction or articles of amendment changing its name to a name that is available for use in this state or directing a foreign corporation to file an application for amended certificate of authority changing its name to a name that is available for use in this state. Since this is a ministerial correction of documents, the corporation shall not be required to pay a fee to the Commissioner for such filing.

   (b) In the event the domestic or foreign corporation fails to file the appropriate documents to change its name, the Secretary of State may mark the records maintained by the Secretary of State to show the entity's noncompliance and may certify the record to the Attorney General and request that the corporation be given written notice of judicial dissolution, pursuant to O.C.G.A. Section 14-2-1430, by an appropriate superior court of this State.

Cite as Ga. Comp. R. & Regs. R. 590-7-2-.06
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Contested Cases" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: ER. 590-7-2-0.22-.06 adopted. F. Jul. 7, 1989; eff. July 3, 1989, the date of adoption, to remain in effect

for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Amended: Permanent Rule adopted. F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Dec. 13, 1990; eff. Jan. 2, 1991.
Amended: F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-2-.07. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-7-2-.07
Authority: O.C.G.A. Secs. 14-2-40, 14-2-41, 14-2-42, 14-2-390, 14-5-23.
History. Original Rule entitled "Prohibited Acts" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Repealed: ER. 590-7-2-0.22-.07 adopted. F. Jul. 7, 1989; eff. July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Repealed: F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.

Rule 590-7-2-.08. Foreign/Domestic Corporations Distinguished.

The name of a place attached to one of two otherwise indistinguishable or identical names may sufficiently distinguish between a foreign and a domestic corporation, or between two foreign corporations.

Cite as Ga. Comp. R. & Regs. R. 590-7-2-.08
Authority: O.C.G.A. Secs. 14-5-40, 14-2-390, 14-5-23.
History. Original Rule entitled "Foreign/Domestic Corporation" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.

Rule 590-7-2-.09. Domestic Corporations Distinguished.

The name of a place or location attached to one or more otherwise indistinguishable or identical names may sufficiently distinguish between two domestic.

Cite as Ga. Comp. R. & Regs. R. 590-7-2-.09
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Domestic Corporations Distinguished" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-2-.10. Professional Corporations.

Applicants seeking the reservation of a name for a professional corporation shall furnish to the Commissioner a confirmation from the appropriate regulating board or authority of the professional status of the applicant seeking to incorporate. For certain professions this

requirement may be met by furnishing the registration number of such professional from the Professional Licensing Boards Division of the Office of Secretary of State, or in the case of an attorney, the registration number provided by the State Bar of Georgia.

Cite as Ga. Comp. R. & Regs. R. 590-7-2-.10
Authority: O.C.G.A. §§ 14-2-130, 14-5-23.
History. Original Rule entitled "Professional Corporations" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-2-.11. Financial Institutions.

(1) Applicants seeking the reservation of a corporate name for a financial institution shall make such application to the Department of Banking and Finance.

(2) If the Department of Banking and Finance determines that the name complies with the requirements of O.C.G.A. § 7-1-130 and is otherwise consistent with Georgia law, and is distinguishable upon the records of the Secretary of State from the name of any other corporation, limited partnership, or professional association, it shall reserve the name and notify the Secretary of State of such name reservation.

(3) Decisions regarding the issuance of name reservations to financial institutions shall be made by the State Department of Banking and Finance. Provisions of Title 14 relating to the reservation of names shall not apply to a corporation which is, or is proposed to become, a financial institution.

Cite as Ga. Comp. R. & Regs. R. 590-7-2-.11
Authority: O.C.G.A. Secs. 7-1-131, 14-5-23, 14-2-130.
History. Original Rule entitled "Financial Institutions" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: ER. 590-7-2-0.22-.11 adopted. F. Jul. 7, 1989; eff. July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Amended: Permanent Rule adopted. F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.

Rule 590-7-2-.12. Restricted Names.

(1) The Secretary of State may refuse to grant a request for a name certificate or a proposed entity name if such requested name contains the name of any entity on file with the Secretary of State pursuant to Title 14 of the Code. A request for a name certificate or a proposed entity name may be granted if the applicant obtains express written permission from the entity regarding the use of the name, and the names are otherwise distinguishable or the other entity files with the Secretary of State an appropriate document to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation.

(2) The Secretary of State may refuse to grant a request for a name certificate or a proposed entity name if such requested name contains any word whose use is restricted by any provision of the Official Code of Georgia Annotated.

(3) The Secretary of State may restrict from use, require consent, or require further information before certain terms shall be used in a domestic corporation or foreign corporation name. A list of said terms shall be posted in the same public access area of the Division offices as the fee and penalty listing maintained pursuant to Rule 590-7-1-.08. Said list shall be available upon request. The restricted terms shall be deemed to include the name of any well-known trademark, tradename, governmental agency, educational organization or institution, charitable organization, or professional organization.

Cite as Ga. Comp. R. & Regs. R. 590-7-2-.12
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Restricted Names" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: ER. 590-7-2-0.22-.12 adopted. F. Jul. 7, 1989; eff. July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Amended: Permanent Rule adopted. F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Subject 590-7-3. CORPORATIONS - FILING OF DOCUMENTS.

Rule 590-7-3-.01. Filing of Documents.

(1) The filing of the documents by a domestic or foreign corporation shall be made with the Commissioner in the following manner:

(a) By mailing the required documents and fees to the Secretary of State at 2 Martin Luther King, Jr. Drive, Suite 313 West Tower, Atlanta, Georgia 30334;

(b) By delivering the required documents and fees to the Secretary of State at the address referred to in subparagraph (a) above; or

(c) By electronic transmission in the manner authorized by the Division on its website.

(2) Documents filed at the office of the Commissioner shall be processed in time receipt order. Expedited processing of filings may be requested.

(3) The documents presented for filing shall be written in English, shall be of sufficient quality for legible reproduction by microfilm, and shall be typed or printed on white, letter-size (8 1/2" x 11") paper in black or blue ink only.

(4) Articles of incorporation and the transmittal information form may be signed by legal counsel on behalf of the corporation or the incorporators.

Cite as Ga. Comp. R. & Regs. R. 590-7-3-.01
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Application" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Amended: New title "Filing of Documents." F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-3-.02. Transmittal Information Form.

All articles of incorporation shall include a transmittal information form as prescribed by the Commissioner. Information contained on the form shall be used by the Commissioner for entry into the automated database. The Commissioner or his or her staff shall enter the information contained on the form and shall not be responsible for any errors or omissions on said form. The form shall be attached to and made a part of the original articles of incorporation on file with the Commissioner, including articles of incorporation that are filed as part of a certificate of conversion.

Cite as Ga. Comp. R. & Regs. R. 590-7-3-.02
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Form A100" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Repealed: New Rule entitled "Transmittal Information Form" adopted. F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-3-.03. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-7-3-.03
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Expedited Processing" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Repealed: F. Sep. 30, 2013; eff. Oct. 20, 2013.

Rule 590-7-3-.04. [Repealed].

Cite as Ga. Comp. R. & Regs. R. 590-7-3-.04
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Name Reservation" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Repealed: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-3-.05. Additional Information.

(1) **Correct mailing address.** The applicant shall provide the Commissioner with a correct mailing address, which may be a post office box or street address.

(2) **Registered office address.** The applicant shall also provide the Commissioner with the street address of the registered office where service of process may be effectuated. This address may not be a post office box, post office drawer, or rural route, unless the address is also accompanied with additional information regarding the exact location of the registered office.

(3) **County of initial registered office.** The applicant shall include the name of the county of the registered office.

(4) **Registered Agent.** The legal name of the registered agent at the registered office of the corporation shall be included in the Articles of Incorporation. Consent of the agent to his appointment as registered agent is not required.

Cite as Ga. Comp. R. & Regs. R. 590-7-3-.05
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Additional Information" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: ER. 590-7-3-0.23-.05 adopted. F. Jul. 7, 1989; eff July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Amended: Permanent Rule adopted. F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-3-.06. Returned Documents.

(1) **Documents must be complete.** The Commissioner may return any documents that are not complete and appropriate for filing as prescribed by the Code and the rules promulgated thereunder. The returned documents will be accompanied by a Deficient Document Notice explaining the deficiency and an acknowledgement of receipt by the Secretary of State of the filing fee.

(2) **Filing date.** The documents may be corrected by the applicant and returned to the Commissioner for processing. The applicant must attach to the corrected and returned documents the Deficient Document Notice issued by the Commissioner. If the documents are returned to the Commissioner by the applicant within thirty (30) days of the date of the Deficient Document Notice, the filing date will be the date the filing was initially received by the Commissioner.

(3) **Abandoned filings.** If the filing is not returned to and received by the Commissioner within sixty days (60) of the date of the Deficient Document Notice, the filing will be

deemed abandoned. After a filing is deemed abandoned, a new filing, including the payment of filing fees and any penalties, will be required.

Cite as Ga. Comp. R. & Regs. R. 590-7-3-.06
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Returned Documents" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Amended: F. Jan. 25, 2013; eff. Feb. 14, 2013.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-3-.07. Preclearance.

(1) Documents may be submitted to the Secretary of State for preclearance examination. The purpose of preclearance examination is to confirm that the proposed document conforms to the filing provisions of the Code prior to the actual submittal of the document for filing with the Secretary of State.

(2) Preclearance is available for any document required or permitted to be filed with the Secretary of State pursuant to Title 14 of the Official Code of Georgia Annotated, as amended.

(3) The fee for preclearance is set forth on the fee schedule maintained by the Secretary of State. The preclearance of a document may be expedited.

(4) Preclearance of documents does not reserve an entity name.

Cite as Ga. Comp. R. & Regs. R. 590-7-3-.07
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Fees" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Repealed: F. Sep. 30, 2013; eff. Oct. 20, 2013.
Adopted. New Rule entitled "Preclearance." F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-3-.08. Amendments and Other Subsequent Filings.

(1) The Secretary of State shall endorse all amendments, mergers, and other subsequent filings with a stamp certificate acknowledging the filing and stating the time and date of such filings.

(2) All amendments and subsequent filings shall include the charter or control number of the corporation, the date of its original incorporation, and any fees required by law and the fee schedule maintained by the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-3-.08
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Amendments and Other Subsequent Filings" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: ER. 590-7-3-0.23-.08 adopted. F. Jul. 7, 1989; eff July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Amended: Permanent Rule adopted. F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-3-.09. Foreign Corporations.

(1) **Initial Qualification**.

(a) No foreign corporation shall have the right to transact business in this State until it procures a certificate of authority to do so from the Commissioner. This certificate may be procured by the filing of the application of certificate of authority form, as prescribed by the Secretary of State, a certificate of existence or a document of similar import issued by the foreign corporation's state of incorporation satisfactory to the Commissioner, and the payment of fees and penalties as set forth in the Code and the fee schedule published by the Commissioner

(b) The application for certificate of authority form, as prescribed by the Commissioner, shall contain the information required by O.C.G.A. Sections 14-2-1503 and 14-3-1503, and any other information necessary to determine whether the applicant is subject to any fees or penalties imposed by the Code or the fee schedule published by the Commissioner.

(c) Any certificate of existence, authentication of record, or document of similar import issued by a foreign corporation's home state which is required by the Code or the rules to be filed with the Commissioner shall be dated or issued within ninety (90) days prior to the date of filing the application for certificate of authority with the Commissioner.

(2) **Subsequent Filings**.

(a) Each foreign corporation qualified to do business in this State shall maintain its qualification in its home state. All filings required by such state must be current in order to maintain the corporation's status in Georgia. Such corporation is required to file an annual registration in Georgia between January 1 and April 1 of each year, or such other date as the Secretary of State may specify by rules or regulations. A foreign corporation is not required to file an annual registration during the year it initially qualifies to transact business in the State of Georgia. Corporation action resulting in a change of the corporate name, change in the state of incorporation, or withdrawal from doing business in this State must be filed directly with the Commissioner. All other corporate actions requiring filings will be deemed to be filed with the Commissioner if properly filed in the state of

incorporation. The foreign corporation, by filing its application for authority, undertakes to promptly provide such filings to the Commissioner upon request.

(b) Any certificate of existence, authentication of record, or document of similar import issued by a foreign corporation's home state which is required by the Code or the rules to be filed with the Commissioner shall be dated or issued within ninety (90) days prior to the date of said filing in Georgia.

(3) **Time period for qualification; penalties.** A foreign profit or nonprofit corporation may not transact business in this state until it obtains a certificate of authority from the Secretary of State. If a foreign profit corporation does not obtain said certificate within 30 days of the commencement of business in Georgia, the foreign profit corporation shall be liable for a civil penalty of $500, in addition to any other fees and/or penalties which may be assessed for transacting business in this state without a certificate of authority.

Cite as Ga. Comp. R. & Regs. R. 590-7-3-.09
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Foreign Corporations" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: ER. 590-7-3-0.23-.09 adopted. F. Jul. 7, 1989; eff. July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Amended: Permanent Rule adopted. F. Nov. 20, 1989; eff. Dec. 11, 1989; as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Repealed: New Rule with same title adopted. F. Sep. 30, 2011; eff. Oct. 20, 2011.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-3-.10. Officers of Foreign Corporations.

The application for certificate of authority form will provide for the listing of the chief executive officer, chief financial officer, and secretary, or individuals holding similar positions, of the foreign corporations seeking to obtain a certificate of authority. Additional officers may be filed by attaching an addendum to the application form. Up to three officers will be entered into the corporate database. The names and addresses of any additional officers of the foreign corporation will be available upon request and payment of applicable fees for research requests as established by the fee schedule published and maintained by the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-3-.10
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Directors and Officers, Foreign Corporations" was filed as ER. 590-7-3-0.23-.10 on Jul. 7, 1989; eff. July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Amended: Permanent Rule adopted. F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."

Amended: New title "Officers of Foreign Corporations." F. Nov. 26, 2018; eff. Dec. 16, 2018.

Subject 590-7-4. CORPORATIONS - ANNUAL REGISTRATION.

Rule 590-7-4-.01. Annual Registration Processing.

The Secretary of State or his or her agent shall receive the incoming annual registrations. It is the responsibility of the Division to promptly process and record the filing of annual registrations pursuant to the Code. The Division may designate an agent or agents to assist in the administrative duties concerning annual registrations.

Cite as Ga. Comp. R. & Regs. R. 590-7-4-.01
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Annual Registration Processing" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-4-.02. New Registration Filings.

(1) **Domestic Corporations.** A newly formed domestic corporation shall file an initial annual registration on a form provided by the Commissioner and shall pay the fee required by the Code within 90 days after its articles of incorporation are filed or become effective. If the articles of incorporation are delivered for filing subsequent to October 1, the initial annual registration shall be filed between January 1 and April 1 of the year next succeeding the calendar year in which the certificate of incorporation is issued. A certificate of existence for the newly formed corporation may be issued by the Commissioner from the date of incorporation until the date that the 90 day initial annual registration is due to be filed.

(2) **Foreign Corporations.** A newly qualified foreign corporation shall file an annual registration with the Commissioner on a form provided by the Commissioner, and pay the fee and penalties set forth in the Code, between January 1 and April 1 of the year following the calendar year of the new registration filing.

Cite as Ga. Comp. R. & Regs. R. 590-7-4-.02
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "New Registration Filings" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: ER. 590-7-4-0.24-.02 adopted. F. Jul. 7, 1989; eff. July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Amended: Permanent Rule adopted. F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-4-.03. Annual Registration Filings.

(1) Each corporation that is on file with the Secretary of State and registered to do business in this state shall, between January 1 and April 1 of each year, file an annual registration with the Commissioner. This annual registration must be on forms provided by the Commissioner and shall include the payment of the fee and penalties set forth in the Code and fee schedule maintained by the Commissioner. The Commissioner may provide for the electronic filing of annual registrations.

(2) The annual registration is due as of January 1 of any calendar year in which a corporation exists or is qualified to transact business in the State of Georgia. The annual registration may be paid between January 1 and April 1 of said calendar year.

(3) Any corporation that applies for voluntary dissolution, withdrawal, or merger out of existence between January 1 and April 1 of any year must file an annual registration for that calendar year and pay the required fee as stated in Rule 590-7-7-.01.

Cite as Ga. Comp. R. & Regs. R. 590-7-4-.03
Authority: O.C.G.A. Secs. 14-5-23, 14-2-130, 14-2-1622, 14-3-270, 14-5-11.
History. Original Rule entitled "Annual Registration Filings" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.

Rule 590-7-4-.04. Depository.

The Commissioner may designate a depository for receipt of annual registration filings and fees on an annual basis, in accordance with the lockbox criteria developed and administered by the Department of Administrative Services (DOAS). The depository may perform certain ministerial services on behalf of the Commissioner in order to fulfill the lockbox functions as set forth by DOAS and these Rules. The selected depository shall enter into an agreement with the Commissioner that any goods and services provided the Division under the agreement will be subject to appropriate purchasing procedures and any relevant state laws.

Cite as Ga. Comp. R. & Regs. R. 590-7-4-.04
Authority: O.C.G.A. Secs. 14-2-390, 14-5-23.
History. Original Rule entitled "Depository" filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.

Rule 590-7-4-.05. Valid Period of Annual Registration.

(1) Notwithstanding any other law or rule to the contrary, each domestic corporation and foreign corporation may file an annual registration to be valid for a period up to and including three calendar years.

(2) On an annual registration, each domestic corporation or foreign corporation shall designate a period of one year, two years, or three years as the valid annual registration period of said annual registration filing. The annual registration filing shall be accompanied by the payment of the fee and penalties set forth in the Code and the fee schedule maintained by the Secretary of State for each calendar year included in the designated annual registration period.

(3) A corporation's next annual registration is due between January 1 and April 1 of the first calendar year following the end of the designated annual registration period in its most recent annual registration filing. For any corporation that reinstates following administrative dissolution, its next annual registration is due between January 1 and April 1 of the first calendar year following its reinstatement.

(4) If changes need to be made to a corporation's principal office address, officer, registered agent, and/or registered office information on file with the Secretary of State prior to the next annual registration being due, then an amended annual registration shall be filed with the Secretary of State. The payment of the fee for an amended annual registration filing as set forth in the Code and the fee schedule maintained by the Secretary of State must accompany any such filing.

(5) Annual registration fees will not be refunded if a corporation is dissolved, merged out of existence, withdrawn, administratively dissolved, or revoked prior to the end of an annual registration period.

Cite as Ga. Comp. R. & Regs. R. 590-7-4-.05
Authority: O.C.G.A. §§ 14-2-121.1, 14-2-130, 14-3-120.1, 14-3-130, 14-5-23.
History. Original Rule entitled "Computer Tape" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Repealed: F. Nov. 26, 2018; eff. Dec. 16, 2018.
Adopted: New Rule entitled "Valid Period of Annual Registration." F. July 23, 2019; eff. August 12, 2019.

Rule 590-7-4-.06. Annual Registration Notifications.

(1) Form. The Commissioner shall design the annual registration form. This form must be functional and contain specific filing instructions.

(2) Distribution. The Commissioner or his or her agent shall prepare and send the annual registration notices to registered corporations.

(3) Notification. All active corporations on file with the Secretary of State will be sent an annual registration notification as soon as possible after January 1 of each year. Annual registration notices may be sent by mail or by electronic methods, such as email. Annual registration notices will not be forwarded to those corporations that have been dissolved, merged out of existence, withdrawn, or revoked. Annual registration notices will not be

forwarded to those active corporations that failed to maintain a valid mailing address on file with the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-4-.06
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Annual Registration Notifications" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Jan. 3, 2013; eff. Jan. 23, 2013.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-4-.07. [Repealed].

Cite as Ga. Comp. R. & Regs. R. 590-7-4-.07
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Annual Registration Processing" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Repealed: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-4-.08. Annual Registration Updating.

The Division may update the annual registration data or employ the services of an outside contractor to update the annual registration data. If the form is not properly signed the Commissioner is authorized to accept the filing and allow the signature on the check used to pay the fee to verify the existence of the facts on the form. Unless otherwise indicated, the signature on the annual registration form shall be deemed to be the signature of an authorized corporate officer. The Secretary of State is authorized to enter into a contract or agreement to provide for the updating of annual registration information.

Cite as Ga. Comp. R. & Regs. R. 590-7-4-.08
Authority: O.C.G.A. Secs. 14-2-390, 14-5-23, 14-2-130, 14-2-1622.
History. Original Rule entitled "Annual Registration Updating" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: ER. 590-7-4-0.24-.08 adopted. F. Jul. 7, 1989; eff. July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Amended: Permanent Rule adopted. F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.

Rule 590-7-4-.09. Retention of Annual Registrations.

The Commissioner shall maintain all filed annual registrations for a period of five (5) years.

Cite as Ga. Comp. R. & Regs. R. 590-7-4-.09
Authority: O.C.G.A. Secs. 14-2-390, 14-5-23.
History. Original Rule entitled "Retention of Annual Registrations" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.

Rule 590-7-4-.10. Failure to File Annual Registration.

A corporation that is on file with the Secretary of State or authorized to transact business in this State that fails to file its annual registration with the correct fee may be subjected to administrative dissolution or revocation in accordance with the provisions of Title 14 of the Official Code of Georgia Annotated.

Cite as Ga. Comp. R. & Regs. R. 590-7-4-.10
Authority: O.C.G.A. Secs. 14-2-1420, 14-2-1421, 14-3-1420, 14-3-1421, 14-2-130, 14-3-217, 14-5-11.
History. Original Rule entitled "Failure to File Annual Registration" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: ER. 590-7-4-0.24-.10 adopted. F. Jul. 7, 1989; eff. July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Amended: Permanent Rule adopted. F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."

Rule 590-7-4-.11. Extensions of Filing Time.

The Commissioner may extend the time of filing of the annual registration if he or she determines that it is in the public interest to do so and if additional time is needed to complete the updating of the corporate information and payment records of the corporation. In the event an order is issued setting forth such extension, the Commissioner is authorized to issue certificates of existence on those corporations that are current through the preceding year.

Cite as Ga. Comp. R. & Regs. R. 590-7-4-.11
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Extensions of Filing Time" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Subject 590-7-5. CORPORATE INFORMATION CENTER.

Rule 590-7-5-.01. Corporate Information Center.

The Corporate Information Center ("CIC") shall be established and maintained by the Commissioner to promptly provide to the general public information on corporations registered and doing business in the State of Georgia.

Cite as Ga. Comp. R. & Regs. R. 590-7-5-.01
Authority: O.C.G.A. Secs. 14-5-23, 14-2-130.
History. Original Rule entitled "Corporate Information Center" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.

Rule 590-7-5-.02. Telephone Inquiries.

(1) The Commissioner, during normal business hours, will accept up to three (3) corporate inquiries per telephone call.

(2) The only information provided by telephonic inquiry shall be the information readily available from the automated database.

(3) The person requesting information will be informed whether the requested information is available in the automated database.

(4) The following information, if available on the computer system, will be provided:

(a) Correct corporate name;

(b) Type of corporation;

(c) Status;

(d) Date incorporated;

(e) Registered office and agent;

(f) Annual registration status;

(g) Principal officers;

(h) County/State of original incorporation.

(5) If the information is not readily available from the automated database, the person requesting the information may place an order to have the information provided by mail.

(6) The order will be reviewed to determine if the information requested is available from the automated database, the microfilm files and other records maintained by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 590-7-5-.02
Authority: O.C.G.A. Secs. 14-2-130, 14-5-23.
History. Original Rule entitled "Telephone Inquiries" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.

Rule 590-7-5-.03. [Repealed].

Cite as Ga. Comp. R. & Regs. R. 590-7-5-.03
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Payment of Charges" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Jul. 1, 1993; eff. July 21, 1993.

Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Repealed: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-5-.04. Legal Interpretations.

The personnel in the CIC and Division are not authorized to provide legal interpretations concerning the Code or to provide tax and business advice.

Cite as Ga. Comp. R. & Regs. R. 590-7-5-.04
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Legal Interpretations" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Subject 590-7-6. CORPORATIONS - CERTIFICATION OF DOCUMENTS.

Rule 590-7-6-.01. Certificates, Copies, and Certified Copies.

(1) The Commissioner shall provide:

(a) Copies or certified copies of any document, instrument, data, or paper relating to a corporation as available on the automated database, microfilm files, or other records maintained by the Commissioner; and

(b) Certificates as authorized by the Code and rules promulgated thereunder.

(2) The Commissioner is authorized to establish and impose minimum fees for the production and delivery of requested documents and certificates. Charges for such certificates and services shall be those published in the fee schedule maintained by the Commissioner.

(3) Certificates and documents must be requested in written form or in electronic form, if available.

(4) The use of electronic ordering shall be in the manner authorized by the Commissioner for such purpose. The Commissioner may establish minimum fees for such electronic orders and provide for electronic funds transfer for the payment of such fees.

(5) Applicants must pay the applicable fees in advance, unless arrangements have been previously approved for invoicing charges for services.

(6) A submitted order will be reviewed to determine if copies and certificates can be prepared as requested, based on information contained in the automated database, the microfilm files, and the other records maintained by the Commissioner. An order will be considered

to have been completed when the order is processed or rejected and supporting documentation has been forwarded to the applicant.

(7) Pickup service is not available unless expedited processing is requested and approved.

(8) Expedited processing of certificates may be obtained by submitting a request for expedited processing. Expedited service may not be available if the requested documents have been referred to the Georgia Archives or other off-site storage facilities. The request for expedited processing must be accompanied by the payment of the fee published in the fee schedule maintained by the Commissioner, in addition to the applicable service fee. Form of payment shall be in the manner provided in Rule 590-7-1-.09. In the event expedited service is authorized, the documents, if available, and the certificate will be prepared and furnished within the time frame specified on the fee schedule maintained by the Commissioner. An expedited request for copies or certificates will be considered to have been completed when the order is processed or rejected and supporting documentation has been forwarded to the applicant.

Cite as Ga. Comp. R. & Regs. R. 590-7-6-.01
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Certificates" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Sep. 30, 2013; eff. Oct. 20, 2013.
Amended: New title "Certificates, Copies, and Certified Copies." F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-6-.02. Requests for Information.

(1) The Commissioner may accept, but is not required to accept, telephone or electronic requests for copies of documents and the certification of such documents.

(2) The applicant will be informed whether the requested documents are available based on the information contained in the automated database. All documents regarding foreign corporations must be requested from the state in which the foreign corporation was originally incorporated ("home state") except the following documents if such information or document is on file with the Commissioner:

(a) Application for a Certificate of Authority or amended Certificate of Authority;

(b) Certificate of Authority to transact business;

(c) Certificate of Existence from the home state;

(d) Annual registration in Georgia.

(3) If the documents appear to be available, the applicant may place an order for said documents or certificates as provided in Rule 590-7-6-.01.

Cite as Ga. Comp. R. & Regs. R. 590-7-6-.02
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Requests for Information" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: Authority repealed and new Authority adopted. F. Aug. 7, 1990; eff. Aug. 28, 1990.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-6-.03. [Repealed].

Cite as Ga. Comp. R. & Regs. R. 590-7-6-.03
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Payment of Charges" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Repealed: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-6-.04. Certificate of Corporate History (Long Form Certificate).

If a written request is made, the Commissioner will provide a certificate of corporate history. A cost reimbursement will be assessed and will be based on the amount of research time needed to prepare the certificate. The minimum charge for a complete historic research and the production of documents and certificates shall be published in the fee schedule published and maintained by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 590-7-6-.04
Authority: O.C.G.A. Secs. 14-5-23, 14-2-130.
History. Original Rule entitled "Certificate of Corporate (Long Form Certificate)" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.

Rule 590-7-6-.05. Forms of Certificates.

(1) The certificates provided by the Secretary of State shall include, but are not limited to, the following:

(a) **Certificate of Existence.** This certificate is generated from the automated database for active corporations in good standing and in compliance with the applicable filing and annual registration provisions of the Code.

(b) **Certificate of Search.** This certificate is generated from the automated database for entities not found filed of record with the Secretary of State.

(c) **Certificate of Noncompliance.** This certificate is generated from the automated database for domestic and foreign corporations on file with the Secretary of State that are not in good standing and are not in compliance with the applicable filing and annual registration provisions of the Code.

(d) **Certificate of Registered Agent and Registered Office.** This certificate is generated from the automated database and states the registered agent and registered office of record for a domestic or foreign corporation.

(e) **Certified Copies of Documents.** This certificate is generated from the automated database for any document, instrument, or paper relating to a domestic or foreign corporation as available on the automated database, microfilm files, or other records maintained by the Secretary of State.

(f) **Certificate of Fact - Special Research Request.** Certificates of Fact will be prepared and issued if a detailed request is made to the Secretary of State in writing. The staff will not interpret legal documents but will provide certifications of filings, names, and dates after conducting research of the records of the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-6-.05
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Forms of Certificates" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Subject 590-7-7. CORPORATIONS - DISSOLUTIONS, REVOCATIONS AND WITHDRAWALS.

Rule 590-7-7-.01. Compliance with Filing Requirements.

(1) All corporations shall be in compliance with the annual registration filing provisions of the Code before receiving a certificate of voluntary dissolution, a certificate of withdrawal or a certificate of merger out of existence. Any corporation that applies for voluntary dissolution, withdrawal, or merger out of existence between January 1 and April 1 of any year must file an annual registration for that calendar year and pay the required fees.

(2) All fees and penalties shall be paid by the corporation prior to any certificate of voluntary dissolution, certificate of withdrawal or certificate of merger out of existence being issued by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 590-7-7-.01
Authority: O.C.G.A. Secs. 14-2-130, 14-5-23.
History. Original Rule entitled "Compliance with Filing Requirements" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.

Rule 590-7-7-.02. Domestic Corporations.

(1) **Voluntary Dissolution.**

(a) Notice of Intent to Dissolve. Each corporation that has commenced business must file a notice of intent to dissolve with the Commissioner. Said notice shall be marked with the time and date of receipt and a copy of said notice shall be returned to the corporation.

(b) At the time of the filing of articles of dissolution, the corporation must be in compliance with the filing requirements of the Code and all fees and penalties must be paid.

(c) The articles of dissolution shall be in the form prescribed by the Code.

(d) A certificate of dissolution shall be issued by the Commissioner if he or she finds the filing to contain the necessary information and documents.

(e) The automated database shall be marked to reflect the dissolution, and the certificate and articles of dissolution shall be filed with other documents relating to the corporation.

(2) **Administrative Dissolution.** The Commissioner, as Secretary of State, may initiate administrative dissolution for either profit or nonprofit corporations if he finds that grounds for administrative dissolution exist as stated in the Code. If the Commissioner determines that one or more grounds for administrative dissolution exists, he or she shall notify the corporation of such determination in writing by mailing a copy of the notice, by first class mail, to the corporation at the last known address of its principal office or to its registered agent. If the corporation does not correct each ground for dissolution or does not reasonably demonstrate that each ground does not exist within sixty (60) days after notice is provided, a certificate of administrative dissolution citing the grounds for administrative dissolution will be issued.

(3) **Reinstatement.**

(a) A domestic corporation that has been administratively dissolved may be reinstated pursuant to the Code if an application in compliance with the Code is made within five (5) years after the date of administrative dissolution.

(b) The application for reinstatement of a domestic profit corporation shall be executed by:

1. The registered agent or an officer of the corporation, in each case as set forth in the most recent annual registration of the corporation filed with the Secretary of State; or

2. Be accompanied by a notarized statement, executed by a person who was an officer, director, or shareholder, or an heir, successor, or assign of a person who was an officer, director, or shareholder, of the corporation at the time that the corporation was administratively dissolved, stating that such person or decedent was an officer, director, or shareholder of the corporation at the time of administrative dissolution and such person has knowledge of and assents to the application for reinstatement.

(c) The application for reinstatement of a domestic nonprofit corporation shall be executed by:

1. The registered agent or an officer of the nonprofit corporation, in each case as set forth in the most recent annual registration of the nonprofit corporation filed with the Secretary of State; or

2. Be accompanied by a notarized statement, executed by a person who was an officer, director, or member, or an heir, successor, or assign of a person who was an officer, director, or member, of the nonprofit corporation at the time that the nonprofit corporation was administratively dissolved, stating that such person or decedent was an officer, director, or member of the nonprofit corporation at the time of administrative dissolution and such person has knowledge of and assents to the application for reinstatement.

Cite as Ga. Comp. R. & Regs. R. 590-7-7-.02
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Domestic Corporations" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: ER. 590-7-7-0.25-.02 adopted. F. Jul. 7, 1989; eff. July 3, 1989, the date of adoption to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Amended: Permanent Rule adopted. F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-7-.03. Foreign Corporations.

(1) **Withdrawal.**

(a) Each foreign corporation must file an application for a certificate of withdrawal in order to terminate its authority to transact business in this State. If the foreign corporation is being dissolved in its home jurisdiction, the application shall be accompanied by evidence of the dissolution or termination issued by its home jurisdiction.

(b) At the time of filing of the application for a certificate of withdrawal, the foreign corporation must be in compliance with the filing requirements of the Code and all fees and penalties must be paid, including the annual registration due the calendar year of withdrawal.

(c) A certificate of withdrawal shall be issued by the Commissioner if he or she finds the filing to contain the necessary information and documents.

(d) The automated database shall be marked to reflect the withdrawal, and the certificate and application shall be filed with other documents relating to the foreign corporation.

(2) **Revocation.** The Commissioner, as Secretary of State, may initiate revocation proceedings for either profit or nonprofit foreign corporations if he or she finds that grounds for revocation exist as stated in the Code. If the Commissioner determines that one or more grounds for revocation exists, he or she shall notify the foreign corporation of such determination in writing by mailing a copy of the notice, by first class mail, to the foreign corporation at the last known address of its principal office or to its registered agent. If the foreign corporation does not correct each ground for revocation or does not reasonably demonstrate that each ground does not exist within sixty (60) days after notice is provided, a certificate of revocation citing the grounds for revocation will be issued.

Cite as Ga. Comp. R. & Regs. R. 590-7-7-.03
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. 1 Original Rule entitled "Foreign Corporations" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: ER. 590-7-7-0.25-.03 adopted. F. Jul. 7, 1989; eff. July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Amended: Permanent Rule adopted. F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist." .
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Subject 590-7-8. AUTOMATED DATA PROCESSING SYSTEM.

Rule 590-7-8-.01. Authority.

The Commissioner is authorized to establish and maintain a corporate database on electronic data processing equipment. The equipment and software must be procured, developed and

maintained in accordance with standards set forth and approved by the Computer Services Division of the Department of Administrative Services (DOAS).

Cite as Ga. Comp. R. & Regs. R. 590-7-8-.01
Authority: O.C.G.A. Secs. 14-2-130, 14-5-23.
History. Original Rule entitled "Authority" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.

Rule 590-7-8-.02. Records.

(1) The Commissioner is authorized to maintain all records and documents required or authorized to be filed by the Code, including but not limited to, applications, articles of incorporations, dissolutions, amendments, annual registrations and merger documents, in original form or by means of microfilm, microfiche, microphotographic reproduction, photographic reproduction, word processing, computerization, optical disk, electronic disk or diskette storage or other acceptable reproductive methods.

(2) The Commissioner, after verification of the historic microfilm of corporate documents to the automated database maintained by the Commissioner, may rely on such automated database for the purpose of providing corporate information, certifications, and the issuance of corporate name certificates.

(3) The Commissioner shall maintain the integrity of the automated database in accordance with standards prescribed by the Georgia Department of Administrative Services and any Georgia laws. In the event of a malfunction in the electronic equipment or errors in the software programs, the Commissioner shall not be liable for the release of incorrect corporate data or the issuance of a corporate name certificate that is not distinguishable from another corporation filed pursuant to the Code.

Cite as Ga. Comp. R. & Regs. R. 590-7-8-.02
Authority: O.C.G.A. Secs. 14-2-130, 14-5-23.
History. Original Rule entitled "Records" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.

Rule 590-7-8-.03. Public Access.

(1) The Commissioner has determined that it is in the public interest to provide efficient and immediate access to the information contained in the automated database. Pursuant to these rules and subject to equipment availability, direct access to the database shall be provided on a non-discriminatory basis.

(2) The Commissioner is authorized to provide inquiry only access to the automated database on a terminal located in the public access area of the Division, if he finds that it is in the public interest to provide such service and sufficient equipment is available to accommodate the demand for such service. In order to provide equal access to the information the Commissioner is authorized to post a use time schedule for access to such terminal.

(3) The Commissioner may enter into agreements to provide direct access to the automated database with Corporate Services Organizations, provided that:

(a) The Commissioner determines that access to and the intended use of the data is not adverse to the public interest;

(b) the automated data processing equipment will support the demands placed on its operation by the Corporate Service Organization; and

(c) the Corporate Service Organization:

1. files an application that will include the intended use of the data to the Commissioner and provides the Commissioner the information requested on the application form;

2. agrees to conform with the policies and procedures set forth by the Commissioner concerning the utilization of the access;

3. pays the installation and service charge set forth in published fees and services charges maintained by the Commissioner;

4. agrees to pay the transaction fees and charges set forth in the published fees and service charges maintained by the Commissioner or establishes a depository account to be used for the payment of such fees or charges:

5. agrees to pay the cost of any software necessary to provide direct access; and

6. provides and pays for all modems, data transmission lines and communications equipment and charges directly related to the access.

(4) The Commissioner may disconnect the direct access provided by this Rule in the event he determines, after notice and opportunity for hearing, that:

(a) the automated data processing equipment will not support the direct access and allow the staff of the Commissioner to perform its required functions;

(b) the Corporate Service Organization is violating the terms of its agreement with the Commissioner or its use of access is not in the public interest; or

(c) The Corporate Service Organization is delinquent in payments to the Commissioner of charges due under the terms of the agreement and as published in the fees and charges maintained by the Commissioner.

(5) Neither the Commissioner, nor his staff, shall be liable for any services or information provided by a Corporate Service Organization to any person or entity.

Cite as Ga. Comp. R. & Regs. R. 590-7-8-.03
Authority: O.C.G.A. Secs. 14-2-130, 14-5-23.
History. Original Rule entitled "Public Access" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.

Rule 590-7-8-.04. Electronic Filings.

(1) The Commissioner is authorized to accept electronic filings for all documents authorized, permitted, or required to be filed under the Code, including, but not limited to articles of incorporation, applications for certificates of authority, annual registrations, amendments, mergers, consolidations, dissolutions, and changes of registered agents or offices.

(2) Prior to accepting electronic filings the Commissioner shall:

(a) determine that appropriate and sufficient security precautions have been devised to maintain the integrity of the filings and the database;

(b) obtain the approval from the Computer Services Division of the Department of Administrative Services certifying that adequate electronic safeguards exist to maintain the integrity of the electronic files; and

(c) determine that it is in the public interest to offer electronic filings to the public.

(3) The Commissioner is authorized to develop and publish policies and procedures necessary to effectuate electronic filings into the corporate database. Such policies and procedures shall be made available to applicants seeking approval to utilize electronic filing.

Cite as Ga. Comp. R. & Regs. R. 590-7-8-.04
Authority: O.C.G.A. Secs. 14-2-130, 14-5-23.
History. Original Rule entitled "Electronic Filings" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.

Rule 590-7-8-.05. Service Charges.

The Commissioner may impose service charges in order to have immediate electronic access to, or the ability to make electronic filings into, the corporate database or a database maintained by a Corporate Service Organization. Such charges shall be posted on the Fee Schedule prepared and maintained by the Commissioner. Service charges may only be changed by the posting by the Commissioner of such changes in the public access area of the Division offices for a minimum of thirty (30) days prior to any such change being effective.

Cite as Ga. Comp. R. & Regs. R. 590-7-8-.05
Authority: O.C.G.A. Secs. 14-2-130, 14-5-23.
History. Original Rule entitled "Service Charges" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.

Subject 590-7-9. CORPORATIONS - SERVICE OF PROCESS.

Rule 590-7-9-.01. Designated Agents.

The Secretary of State or Assistant Corporation Commissioner shall designate by written order certain staff members of the Division to accept service of process on behalf of the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-9-.01
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Designated Agents" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-9-.02. Receipt of Service.

(1) Whenever by statute the Secretary of State is appointed or deemed to have been appointed the agent of any individual or entity for the purpose of service of any process, the Secretary of State may be served by:

(a) Mailing the required documents and fees to the Secretary of State at 2 Martin Luther King, Jr. Drive, Suite 313, West Tower, Atlanta, Georgia 30334;

(b) Delivering the required documents and fees to the address referred to in subparagraph (a) above; or

(c) By electronic transmission in the manner authorized by the Division on its website.

Cite as Ga. Comp. R. & Regs. R. 590-7-9-.02
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Receipt of Service" was filed on June 10, 1987; effective July 1, 1987, as specified

by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-9-.03. Processing.

(1) Service of process documents filed at the office of the Secretary of State shall be processed in time receipt order. Expedited processing shall not be available for service of process filings.

(2) All requests for service of process on the Secretary of State shall be accompanied by:

(a) One complete copy for each party to be served, with said copy to include a summons dated and signed by the appropriate Clerk of Court and a complete complaint including civil action number;

(b) A statement identifying the Code section under which the filing is made;

(c) If required by the applicable Code section, an affidavit which meets all the provisions of that Code section; and

(d) The payment of the fees as required by the Code or as listed on the fee schedule published by the Secretary of State.

(3) The Secretary of State shall issue to the person making the filing:

(a) An acknowledgement of receipt; or

(b) A certificate of filing of documents filed with the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-9-.03
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Processing" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: ER. 590-7-9-0.26-.03 adopted. F. Jul. 7, 1989; eff. July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Amended: Permanent Rule adopted. F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-9-.04. Returned Documents.

(1) **Documents must be complete.** The Commissioner may return any documents that are not complete and appropriate for filing. The returned documents shall be accompanied by

a Notice with an explanation of the rejection or any deficiencies and an acknowledgement of the receipt by the Secretary of State of the filing fee.

(2) **Correcting deficient filings.** The documents may be corrected and returned to the Commissioner for processing. The filer must attach to the corrected and returned documents a copy of the Notice issued by the Secretary of State. If the documents are returned to the Commissioner by the applicant within sixty (60) days of the date of the Notice, the filing date will be the date the corrected and completed filing is received by the Commissioner.

(3) **Abandoned filings.** If the filing is not returned to and received by the Commissioner within sixty (60) days of the date of the Notice, it will be deemed abandoned and all records pertaining to the filing will be destroyed. A new filing, including payment of filing fees to the Secretary of State, will be required to complete the filing.

Cite as Ga. Comp. R. & Regs. R. 590-7-9-.04
Authority: O.C.G.A. §§ 14-2-130, 14-3-130, 14-5-23.
History. Original Rule entitled "Returned Documents" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-9-.05. Fees.

All fees, whenever possible, shall be paid by check. Each check shall have the name of the case written on it. Fees are non-refundable once the service documents are filed with the Commissioner except as provided by statute.

Cite as Ga. Comp. R. & Regs. R. 590-7-9-.05
Authority: O.C.G.A. Secs. 14-2-130, 14-5-23.
History. Original Rule entitled "Fees" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.

Rule 590-7-9-.06. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-7-9-.06
Authority: O.C.G.A. Secs. 14-2-62, 14-2-319, 14-2-390, 14-3-62, 14-5-23.
History. Original Rule entitled "Mailing of Documents" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Repealed: ER. 590-7-9-0.26-.06 adopted. F. Jul. 7, 1989; eff. July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Repealed: F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.

Rule 590-7-9-.07. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-7-9-.07
Authority: O.C.G.A. Secs. 14-2-62, 14-2-319, 14-2-390, 14-3-62, 14-5-23.
History. Original Rule entitled "Domestic Corporations" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Repealed: ER. 590-7-9-0.26-.07 adopted. F. Jul. 7, 1989; eff. July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Repealed: F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.

Rule 590-7-9-.08. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-7-9-.08
Authority: O.C.G.A. Secs. 14-2-319. 14-2-390, 14-5-23, 53-16-5.
History. Original Rule entitled "Foreign Corporations" was filed on June 10, 1987; effective July 1, 1987, as specified by the Agency.
Repealed: ER. 590-7-9-0.26-.08 adopted. F. Jul. 7, 1989; eff. July 3, 1989, the date of adoption, to remain in effect for 120 days or until adoption of a permanent Rule superseding said ER., as specified by the Agency.
Repealed: F. Nov. 20, 1989; eff. Dec. 11, 1989, as specified by the Agency.

Subject 590-7-10. LIMITED PARTNERSHIPS-RULES OF GENERAL APPLICABILITY.

Rule 590-7-10-.01. Definitions.

(1) **Active Limited Partnership.** As used here the term "active limited partnership" shall mean a limited partnership or foreign limited partnership that is on file with the Secretary of State and is in compliance with the filing requirements of the Official Code of Georgia or a limited partnership that has made an annual registration filing within the past three (3) years.

(2) **Annual Registration.** As used herein the term "annual registration" shall mean the filing required of each limited partnership and foreign limited partnership as set forth in the Code.

(3) **Applicant.** As used herein the term "applicant" shall mean any person making application to the Secretary of State for any service provided or authorized by the Code.

(4) **Assistant Corporation Commissioner.** As used herein all references to the "Assistant Corporation Commissioner" shall mean the Assistant Corporation Commissioner appointed by the Secretary of State as the Director of the Corporations Division to oversee the administration of the Code as provided in O.C.G.A. §§ 14-5-20 and 14-9-1102.

(5) **Automated Database.** As used herein, all references to the "automated database" shall mean the database maintained on the electronic data processing equipment.

(6) **Certificate of Filing.** As used herein all references to "certificates" shall mean a certificate of filing or a form containing signatures of the Secretary of State and/or persons authorized by the Secretary of State, a date of filing and the printed or embossed seal of the State of Georgia. The certificate of filing may also include the placing of a stamp on a document containing a time and date of filing and an acknowledgement of such filing.

(7) **Certificate of Limited Partnership.** As used herein all references to a "certificate of limited partnership" shall mean the document filed with the Secretary of State to form a limited partnership pursuant to the Code.

(8) **Code.** As used herein, all citations to "the Code" or "Code" refer to the Georgia Revised Uniform Limited Partnership Act, as amended, and other statutes set forth in Title 14 of the Official Code of Georgia Annotated.

(9) **Commissioner.** As used herein, all references to "the Commissioner" or "Commissioner" shall mean the Corporation Commissioner and Secretary of State of the State of Georgia.

(10) **Corporate Service Organization.** As used herein a "corporate service organization" shall mean a person or entity, a substantial part of whose business is:

(a) Providing information concerning corporations and other business organizations to the public;

(b) Providing ministerial services to corporations and other business organizations to assist them in meeting the filing requirements of State and federal laws and regulations pertaining to such organizations; or

(c) Maintaining a commercial database available to the general public.

(11) **Depository.** As used herein, all references to "depository" shall mean a person, individual, organization, corporation or other entity designated by the Secretary of State to accept filings, funds or other documents on his or her behalf and to perform certain ministerial services for the Corporations Division.

(12) **Division.** As used herein all references to "Division" shall mean the Corporations Division of the Office of the Secretary of State. This is the organizational division that is delegated authority by the Secretary of State to administer the provisions of the Code.

(13) **Domestic Limited Partnership.** As used herein "limited partnership" and "domestic limited partnership" shall mean a limited partnership or limited liability limited partnership formed in the State of Georgia pursuant to the Code.

(14) **Entity.** As used herein, the term "entity" includes corporation and foreign corporation; nonprofit corporation and foreign nonprofit corporation, professional corporation and foreign professional corporation, limited partnership and foreign limited partnership,

foreign limited liability partnership, and limited liability company and foreign limited liability company.

(15) **Existing Entity**. As used herein, the term "existing entity" shall mean a domestic or foreign profit corporation, nonprofit corporation, professional corporation, limited partnership, limited liability partnership, limited liability limited partnership, or limited liability company that is on file with the Secretary of State, is in compliance with the filing requirements of the Code, and has not been dissolved, cancelled, terminated, voided, administratively dissolved, merged out of existence, withdrawn, revoked or placed in an inactive status.

(16) **Expedited Review or Expedited Processing.** As used herein the term "expedited review" or "expedited processing" shall mean a special processing of eligible filings or service requests prior to the processing of routine filings or service requests. These filings or service requests, if approved for expedited treatment, will be processed within the time frame of the requested level of expedited service.

(17) **Fee Schedule.** As used herein the term "fee schedule" shall mean the schedule published and maintained by the Secretary of State clearly setting forth the fees and charges for documents and services provided by the Secretary of State. The fees may only be changed by an amendment to the Code. Service charges may only be changed by the posting by the Secretary of State of such changes in the public access area of the Division offices for a minimum of thirty (30) days prior to such change being effective.

(18) **Foreign Limited Partnership.** As used herein the term "foreign limited partnership" shall mean a limited partnership or limited liability limited partnership formed under laws other than laws of the state of Georgia and having as partners one or more general partners and one or more limited partners.

(19) **Foreign Limited Liability Partnership.** As used herein the term "foreign limited liability partnership means any limited liability partnership formed under the laws of a jurisdiction other than this state.

(20) **Home State or Home Jurisdiction.** As used herein all references to a "home state" or "home jurisdiction" shall mean the state or country where a limited partnership has filed its partnership agreement or certificate of limited partnership and has been issued a certificate of limited partnership or such other document or acknowledgement evidencing the formation of the limited partnership.

(21) **Individual.** As used herein the term "individual" means a natural person.

(22) **Legal Name.** As used herein the term "legal name" shall mean:

(a) For an individual, the legal name consists of the individual's first name and last name (or surname), without use of initials or nicknames, as it appears on the individual's birth certificate unless the individual's name has changed based on certain events, such as a marriage or a valid court order for a name change.

Middle name(s), middle name initial(s), and/or suffixes may, but are not required to, be included in an individual's legal name.

(b) For foreign-born individuals, the legal name consists of the individual's name shown on his or her immigration document.

(c) For entities, the legal name consists of the entity's official name as it appears on the entity's formation document filed with the entity's home state, or any valid amendment thereof.

(23) **Name.** All references to the "name" of an individual in the Code and on the forms, applications, and other documents of the Division shall mean an individual's legal name as defined herein.

(24) **Name Certificate.** As used herein the term "name certificate" shall mean the document or confirmation number issued by the Secretary of State establishing the availability of a name for use by a limited partnership.

(25) **Person**. As used herein, all references to "person" includes an individual and a business, legal, or commercial entity as defined by the Code.

(26) **Pickup.** As used herein the term "pickup" shall mean a request by the applicant to pick up processed documents from the Office of the Secretary of State rather than having documents sent by United States mail, electronic mail, or other commercial delivery service.

(27) **Proposed Entity Name**. As used herein, the term "proposed entity name" shall mean:

(a) The name of an entity contained in articles of incorporation, articles of organization, certificate of limited partnership, application for certificate of authority, or an application for name reservation with the Secretary of State; or

(b) The name of an entity contained in articles of amendment, restated articles of incorporation, restated articles of organization, certificate of amendment, articles or certificate of merger, articles or certificate of share exchange, certificate of conversion, application for reinstatement, application for reinstatement or reactivation from inactive status, or application for amended certificate of authority submitted to the Secretary of State for filing, if that name is different than the existing name of the entity or foreign entity on file and of record with the Secretary of State.

(28) **Rule.** As used herein all references to "Rule" or "the Rules" shall mean the rules as they appear in the "Official Compilation, Rules and Regulations of the State of Georgia" as compiled and printed by the Secretary of State pursuant to the Georgia Administrative Procedure Act, O.C.G.A. §§ 50-13-1*et seq.*

(29) **Secretary of State.** As used herein all references to the "Secretary of State" shall mean the Secretary of State of the State of Georgia.

(30) **Sign or Signature.** As used herein all references to "Sign" or "Signature" includes any manual, facsimile, conformed, or electronic signature.

(31) **Year.** As used herein, the term "year" shall mean a calendar year. A calendar year is the one-year period that begins on January 1 and ends on December 31.

Cite as Ga. Comp. R. & Regs. R. 590-7-10-.01
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Definitions" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: New title "Definitions. Amended." F. Jan. 3, 2013; eff. Jan. 23, 2013.
Amended: F. Oct. 3, 2016; eff. Oct. 23, 2016.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.
Amended: F. July 23, 2019; eff. August 12, 2019.

Rule 590-7-10-.02. Delegation to Assistant Corporation Commissioner.

The Assistant Corporation Commissioner is empowered to sign all documents, make all decisions and perform all acts under the Code as is the Secretary of State. This power may be exercised by the Assistant Corporation Commissioner concurrently with the Secretary of State and all acts of the Assistant Corporation Commissioner are of the same force and effect as such acts would be if performed by the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-10-.02
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Delegation to Deputy Secretary of State" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: New title "Delegation to Assistant Corporation Commissioner." F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-10-.03. Administrative Declaratory Rulings; Informal Interpretations.

(1) Declaratory Rulings

(a) **Availability**. Any person whose legal rights will be interfered with or impaired by the application by the Secretary of State of any statutory provision or any rule or order of the Secretary of State may petition the Secretary of State and request a declaratory ruling thereon. The Secretary of State will not render advisory opinions, resolve questions which have become moot or are abstract, hypothetical, or otherwise act hereunder except with respect to such actual controversies or other cases upon which a superior court would be required to act under the

Georgia declaratory judgment statutes as construed by the appellate courts of Georgia.

(b) **Form of Petition**. Each such petition shall be filed with the Secretary of State in writing and shall state:

1. the name and mailing address of the petitioner;
2. the full text of the statute, rule, or order upon which a ruling is requested;
3. a paragraphed statement of all pertinent and existing facts necessary to a determination of the applicability of the quoted statute or rule;
4. the petitioner's contention, if any, as to the aforesaid applicability with citation of legal authorities, if any, which authorize, support, or require a decision in accordance therewith; and
5. a statement setting forth in detail the petitioner's interest in the matter and why and how the petitioner is uncertain or insecure with respect to his rights. The petition shall be verified under oath by, or in proper behalf of, the petitioner.

(c) **Proceedings on petition**. If the Secretary of State shall determine that a decision can be rendered on the face of the petition without further proceedings, he shall render a summary decision thereon. Otherwise, all parties known by the Secretary of State to have a legal interest in the matter shall be notified and given an opportunity to be heard in an informal hearing.

(2) **Informal Interpretations**. Any request presented in any manner other than in accordance with the provisions of paragraph (1) above shall not be deemed to be filed as a petition for declaratory ruling and shall be dealt within any manner that the Secretary of State may deem appropriate.

Cite as Ga. Comp. R. & Regs. R. 590-7-10-.03
Authority: O.C.G.A. Secs. 14-9-1102, 14-9-1103.
History. Original Rule entitled "Administrative Declaratory Rulings; Informal Interpretations" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Rule 590-7-10-.04. Petition for Adoption of Rules.

(1) **Form of petition**. Each petition for adoption of rules made pursuant to the Georgia Administrative Procedure Act shall be filed with the Secretary of State in writing and shall state:

(a) The name and mailing address of the petitioner;

(b) The full text of the rule requested to be amended or repealed, or the full text of the rule desired to be promulgated;

(c) A paragraphed statement of the reasons such rule should be amended, repealed, or promulgated, including a statement of all pertinent existing facts as to petitioner's interest in the matter; and

(d) Citations of legal authorities, if any, which authorize, support, or require the action requested by petitioner. The petition should be verified under oath by, or on behalf of, the petitioner.

(2) **Proceeding on petition**. Upon receipt of the petition, the Secretary of State shall decide upon the action to be taken. Within sixty (60) days after receipt of the petition, the Secretary of State shall inform the petitioner by mail of the decision reached and shall either decline to take the action requested, stating his reasons for so declining, or shall initiate rule-making or rule-changing proceedings in accordance with the Georgia Administrative Procedure Act.

Cite as Ga. Comp. R. & Regs. R. 590-7-10-.04
Authority: O.C.G.A. Secs. 14-9-1102, 14-9-1103.
History. Original Rule entitled "Petition for Adoption of Rules" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Rule 590-7-10-.05. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-7-10-.05
Authority: O.C.G.A. Secs. 14-9-1102, 14-9-1103.
History. Original Rule entitled "Name Reservation Contested Cases" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Repealed: F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."

Rule 590-7-10-.06. Records.

(1) All applications, certificates of filing of limited partnerships, dissolutions, amendments, annual registrations, records, and other documents filed with the Secretary of State pursuant to the various provisions of the Code shall be printed or typed on white paper with blue or black ink only, and said paper shall not exceed letter size measurement of 8 1/2" by 11".

(2) All applications, certificates of filing of limited partnerships, dissolutions, amendments, annual registrations, records, and other documents filed with the Secretary of State pursuant to the various provisions of the Code may be maintained in original form or by

means of microfilm, microfiche, microphotographic reproduction, photographic reproduction, word processing, computerization, optical disk, electronic disk or diskette storage or other acceptable reproductive methods.

(3) The Secretary of State, after verification of the partnership documents to the automated database maintained by the Secretary of State, may rely on such automated database for the purpose of providing corporate information, certifications, and the issuance of limited partnership name certificates.

(4) The Secretary of State will maintain active records of limited partnerships annual registrations for a period of five (5) years and will provide information from, and copies of, such annual registrations during such period. The Secretary of State shall not provide information from or copies of annual registrations on file for more than five (5) years.

(5) The Secretary of State shall maintain the integrity of the automated database in accordance with standards prescribed by the Georgia Department of Administrative Services (DOAS) and Georgia laws. In the event of a malfunction in the electronic equipment, or errors in the software programs, the Secretary of State shall not be liable for the release of incorrect corporate or limited partnership data or the issuance of a limited partnership name certificate that is not distinguishable from another limited partnership filed pursuant to the Code.

(6) Any photographic, microphotographic, optical disk, or computer reproduction of any original writing or record filed with or maintained by the Secretary of State or by a Records Depository approved by the Secretary of State shall be deemed to have been made in the regular course of business. Such reproduction shall be subject to certification pursuant to the Code.

Cite as Ga. Comp. R. & Regs. R. 590-7-10-.06
Authority: O.C.G.A. §§ 14-9-1102 and 14-9-1103.
History. Original Rule entitled "Records" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Rule 590-7-10-.07. Fees, Penalties, and Charges.

(1) Every registration, annual registration, or other filing required pursuant to the Code or any Rule or Regulation promulgated thereunder shall be accompanied by the required fee, penalty fee or funds as required by the Code. All filing fees shall be immediately docketed into the automated database by the staff of the Secretary of State. Docketing of the filing fees shall be for accounting and document control only and shall not constitute acceptance of the filing nor shall it imply that the applicant has met the filing requirements of the Code.

(2) No registration, annual registration, or other filing required pursuant to the Code or any Rule shall be considered officially received by the Secretary of State unless said

documents are accompanied by the required fee or funds. Said fee or funds shall be received by the Secretary of State or by a person designated by him.

(3) All fees and penalties are nonrefundable unless specifically authorized by the Commissioner or Assistant Corporation Commissioner and a written request for refund is received from the applicant.

(4) All fees and penalties are nontransferable unless specifically authorized by the Commissioner or Assistant Corporation Commissioner.

(5) All filing fees and penalties assessed pursuant to the Code or the Rules and Regulations promulgated thereunder shall not be deemed to be paid unless payment is made in United States currency, certified funds, or until any check given for such fees or penalties has been paid by the financial institution upon which such check is drawn.

(6) Fees paid by check or money order shall have the name of the proposed entity or, in the case of a filed entity, the filed entity's name or control number written on it.

(7) The Secretary of State may determine the imposition of any penalty provided for by the Code or the Rules and Regulations promulgated thereunder.

(8) The Secretary of State shall publish a comprehensive list of filing fees, minimum service charges, service charges, penalties and other fees collected by the staff. Service charges may only be changed by the posting by the Secretary of State of such changes in the public access area of the Division offices for a minimum of thirty (30) days prior to such changes becoming effective.

(9) All invoices for certificates, copies, or other charges are due immediately upon receipt. Failure to pay the invoice may result in the invoice being referred for collection and in any future payment being accepted only if submitted by cashier's check or United States Postal Service money order.

(10) The Secretary of State may impose service charges in order for persons to have the ability to make electronic filings into, the automated database. Such charges shall be posted on the fee schedule prepared and maintained by the Secretary of State.

(11) The Secretary of State may impose service charges for the filing of documents in paper format. Such charges shall be posted on the fee schedule prepared and maintained by the Secretary of State.

(12) No filing will be accepted by the Secretary of State without the payment of any past due fees, service charges, or penalties assessed pursuant to the Code or the rules promulgated thereunder.

Cite as Ga. Comp. R. & Regs. R. 590-7-10-.07
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Fees and Penalties" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Amended: New title "Fees, Penalties, and Charges." F. Nov. 26, 2018; eff. Dec. 16, 2018.
Amended: F. July 23, 2019; eff. August 12, 2019.

Rule 590-7-10-.08. Expedited Processing.

(1) Counter pickups of documents and certificates shall not be allowed unless expedited processing is requested and approved.

(2) Expedited processing of filings and the issuance of certificates will be provided if the applicant provides the Secretary of State a request for expedited processing is accompanied by the payment of charges set forth in the fee schedule published and maintained by the Secretary of State, in addition to the applicable filing or service fee.

(3) For filings submitted to the Division by mail, the expedited processing fee shall be paid by United States Postal Service money order, certified check, or cashier's check. For filings hand-delivered to the Division, the expedited processing fee shall be paid by United States Postal Service money order, certified check, or cashier's check, or by a credit card accepted by the Division. For filings electronically transmitted to the Division, the expedited processing fee shall be paid by a credit card accepted by the Division.

(4) The Secretary of State will provide expedited processing if he or she determines the request to be valid and in proper form. An expedited request will be considered to have been completed when the filing has been accepted or rejected for filing and supporting documentation has been forwarded to the filer. An expedited request for the issuance of certificates will be considered to have been completed when the certificate request is processed or rejected and supporting documentation has been forwarded to the requestor.

Cite as Ga. Comp. R. & Regs. R. 590-7-10-.08
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Expedited Processing" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Sep. 30, 2013; eff. Oct. 20, 2013.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-10-.09. Dishonored Payments.

(1) Checks or other forms of payment returned to the Commissioner because of nonpayment and/or charge backs of credit card or debit card payments (hereinafter referred to as the "dishonored" or "dishonored payment") shall be processed according to the following procedures:

(a) **Pending Filings**.

1. The filing and/or the entity for which the filing was made shall be placed in a "pending," "hold," or similar status and the nonpayment of fees noted upon the records of the Secretary of State;

2. A notice of nonpayment demanding immediate payment shall be issued to the entity or person who submitted the payment;

3. If payment is not received within sixty (60) calendar days from the date of notice of nonpayment, the filing will be deemed abandoned as provided in Rule 590-7-12-.05; and

4. If the filing is deemed abandoned, all records pertaining to the filing will be destroyed and a new filing, including the payment of filing fees, shall be required. Any filing fees submitted with the new filing may be required to be paid by cashier's check or United States Postal Service money order.

(b) **Completed Filings**.

1. The entity for which the filing was made shall be deemed to be not in good standing by the Secretary of State. The records of the entity maintained by the Secretary of State shall be marked to show such status and to show the nonpayment of fees; and

2. A notice of nonpayment demanding immediate payment and stating that possible grounds exist for administrative dissolution or revocation shall be issued to the entity or person who submitted payment.

(c) **Annual Registration**.

1. The entity for which the annual registration was submitted shall be deemed to be not in good standing by the Secretary of State. The records of the entity maintained by the Secretary of State shall be marked to show such status and to show the nonpayment of fees; and

2. A notice of nonpayment demanding immediate payment and stating that possible grounds exist for administrative dissolution or revocation shall be issued to the entity or person who submitted payment.

(d) **Services**.

1. The records of the Secretary of State for the entity or person which requested the services shall be marked to reflect nonpayment for the services performed;

2. A notice of nonpayment demanding immediate payment shall be issued to the entity or person who submitted payment; and

3. If payment is not received within thirty (30) calendar days from the date of notice of nonpayment, a second notice will be issued to the entity or person who requested the service. The notice shall state that if payment is not made immediately, all payments for services, fees and filings submitted by the entity or person shall be required to be made by cashier's check or United States Postal Service money order.

(2) Subsequent requests for services or subsequently submitted filings from any entity or person that has submitted payment which has been dishonored may be required to be accompanied by cashier's check or United States Postal Service money order.

(3) Payments tendered for returned checks which are also dishonored shall be redeemed by cashier's check or United States Postal Service money order only.

(4) The Commissioner may require the payment of any service charge in addition to the amount owed as a result of any dishonored payment. Such service charge shall be published in the fee schedule maintained by the Commissioner.

(5) The records of the Secretary of State may be marked to show nonpayment status for any entity or person that has submitted payment which has been dishonored. The issuance of a Certificate of Existence or a statement of good standing regarding the entity may be denied by the Commissioner until full payment has been made.

Cite as Ga. Comp. R. & Regs. R. 590-7-10-.09
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Dishonored Payments" adopted. F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-10-.10. Refunds.

(1) Notwithstanding Rule 590-7-10-.01, and for purposes of this Rule only, an "applicant" shall mean the party who submits a written request for refund to the Commissioner and is the original payor, the proper legal entity of the original payor, or its legally authorized representative.

(2) An applicant shall be refunded all fees in an amount which has been determined to have been paid in error, less deduction of an amount as otherwise provided in this Rule. Payment of any refund amount shall be made interest free. Each request shall be made in writing and submitted in a manner as required by the Commissioner and shall contain such information as the Commissioner may deem as reasonably necessary, which may include applicant's name, date of request, applicant's contact information, reason for

refund, original amount paid, and signature. All requests for refund must be made by the applicant or an authorized representative. It is the sole responsibility of the applicant to provide all documentation supporting the request for refund.

(3) For request for refund to be valid, it must be complete with all supporting documents and submitted within six (6) months of the date of the original payment. No request for refund that is incomplete with missing information or supporting documentation or that is made beyond the expiration of six (6) months following the date of the original payment shall be processed.

(4) All completed refund requests shall be processed by the Commissioner, or his or her delegate, and shall be submitted for review and payment as soon as reasonably possible following receipt of the completed request. Notwithstanding the foregoing, the Commissioner may initiate the refund process in the event that a billing error is discovered in absence of an applicant's request for refund.

(5) Upon review of the request for refund and supporting documentation, the Commissioner may authorize payment of the requested amount, refund a lesser amount, or reject the request if the facts of the matter support such a conclusion.

(6) In the event there is an outstanding balance of unpaid fees owed by the applicant, the Commissioner is authorized to offset any refund amounts as payment for such unpaid fees and any costs.

(7) All refunds must be made payable in the name of the original applicant.

(8) Once a refund is paid to an applicant, the matter shall be considered final and the Commissioner shall not accept any new request for refund relating to the same matter.

Cite as Ga. Comp. R. & Regs. R. 590-7-10-.10
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Refunds" adopted. F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-10-.11. Compliance with Filing Requirements.

(1) Any limited partnership or foreign limited partnership that files for cancellation, withdrawal, or merger out of existence between January 1 and April 1 of any year must file an annual registration for that calendar year and pay the required fees; provided, however, that an annual registration is not required to be filed if the limited partnership is applying for cancellation, withdrawal, or merger out of existence in the same calendar year that it was formed or authorized to transact business in Georgia.

(2) Any document or transaction that is filed by a limited partnership or foreign limited partnership after April 1 of a calendar year must be accompanied by any currently or previously due annual registration.

(3) A certificate of limited partnership that is submitted for filing by an entity converting to or electing to become a limited partnership shall not be accepted by the Secretary of State unless said entity has paid all fees and penalties required by the Code and the Rules, including annual registration fees.

Cite as Ga. Comp. R. & Regs. R. 590-7-10-.11
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Compliance with Filing Requirements" adopted. F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-10-.12. Registered Office and Registered Agent.

(1) **Registered Office.** The registered office must be a street address in Georgia where service of process may be served on the registered agent. The registered office address may not be a post office box, post office drawer, mail drop, or rural route, unless the address is also accompanied by a physical address of the exact location of the registered office where the registered agent can be personally served with process. The registered office may, but need not be, the limited partnership's principal office or its place of business.

(2) **Registered Agent.** The legal name of the registered agent at the registered office of the limited partnership shall be provided to the Secretary of State. An entity may not serve as its own registered agent.

(3) **Unauthorized Appointment of Registered Agent.** A person listed on the records of the Secretary of State as the registered agent for an entity without that person's consent or authorization may file a Notice of Unauthorized Appointment of Registered Agent with the Secretary of State on a form provided by the Division. There is no fee for filing a Notice of Unauthorized Appointment of Registered Agent. If the Notice of Unauthorized Appointment of Registered Agent is accepted for filing by the Secretary of State, then the filed notice will be added to records of the entity maintained by the Secretary of State, the entity's registered office and registered agent information maintained on the Division's automated database will be updated accordingly, and the Division may send notification of the filing to the entity by mail or electronic methods, such as email.

Cite as Ga. Comp. R. & Regs. R. 590-7-10-.12
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Registered Office and Registered Agent" adopted. F. Nov. 26, 2018; eff. Dec. 16, 2018.

Subject 590-7-11. LIMITED PARTNERSHIPS - NAME.

Rule 590-7-11-.01. Method of Reserving Limited Partnership Name.

(1) A limited partnership name may be reserved by any person pursuant to the Georgia Revised Uniform Limited Partnership Act or any other statute providing for limited partnership filings with Secretary of State.

(2) A limited partnership name may be reserved pursuant to the Code in the following manner:

(a) By delivering an application for name reservation to the Secretary of State, Corporations Division, 2 Martin Luther King, Jr. Drive, Suite 313 West Tower, Atlanta, Georgia 30334;

(b) By mailing an application for name reservation to the Secretary of State at the address referred to in paragraph (2)(a) above; or

(c) By electronic transmission in the manner authorized by the Division on its website.

(3) An application for reservation of a name shall be accompanied by the fee specified in the Code.

Cite as Ga. Comp. R. & Regs. R. 590-7-11-.01
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Method of Reserving Limited Partnership Name" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-11-.02. [Repealed].

Cite as Ga. Comp. R. & Regs. R. 590-7-11-.02
Authority: O.C.G.A. §§ 14-9-1102, 14-9-1103.
History. Original Rule entitled "Telephone Inquiries" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Repealed: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-11-.03. Limited Partnership Name.

(1) A limited partnership name must contain the words "limited partnership" or the abbreviation "L.P.".

(2) A limited liability limited partnership must contain the words "limited liability limited partnership" or the abbreviation "L.L.L.P." or "LLLP". The word "Limited" may be abbreviated as "Ltd." or "Ltd".

(3) A limited partnership name or a limited liability limited partnership name may not contain the name of a limited partner unless:

(a) it is also the name of a general partner or the corporate name of a corporate general partner; or

(b) the business of the limited partnership has been carried on under that name before the admission of that limited partner.

(4) The name of a limited partnership or limited liability limited partnership shall not contain any words which indicate that the entity is organized other than as a limited partnership or a limited liability limited partnership. Words which shall not be used in the name of a limited partnership or a limited liability limited partnership include "corporation," "incorporated," professional corporation," "limited liability company," "limited liability partnership" and any abbreviation of such words.

(5) The name of a foreign limited liability partnership must contain the words "limited liability partnership" or the abbreviation "L.L.P." or "LLP". The word "Limited" may be abbreviated as "Ltd." or "Ltd". Words which shall not be used in the name of a foreign limited liability partnership include "corporation," "incorporated," professional corporation," "limited liability company," "limited partnership","limited liability limited partnership" and any abbreviation of such words.

(6) The name of a limited partnership, limited liability limited partnership, and foreign limited liability partnership:

(a) Must consist of only English alphabet letters, Arabic numerals, Roman numerals, and symbols and special characters capable of being reproduced on a standard English (U.S.) keyboard;

(b) Must not contain the acronym "DBA" or any variations of such acronym; and

(c) Must not exceed 80 characters, including spaces and punctuation.

Cite as Ga. Comp. R. & Regs. R. 590-7-11-.03
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Limited Partnership Name" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-11-.04. Issuance of Name Reservation Certificate.

(1) Following application for a name reservation by any means available, if the name appears to be available, it will be reserved and a name certificate will be promptly sent by mail or by electronic methods, such as email, to the applicant. The applicant may not pickup a name certificate from the Division unless expedited processing is requested and authorized.

(2) A name reservation shall be valid for a nonrenewable period of thirty (30) days from the date of issuance of the name certificate.

(3) Within the thirty (30) day name reservation period, an applicant filing a certificate of limited partnership, certificate of amendment with a name change, or other similar document, may provide the Secretary of State with a name certificate or certification of the availability of a limited liability company name. The Secretary of State may accept a certification, verification, or confirmation number in lieu of a name certificate, provided the Secretary of State's records reveal that the name was reserved by the applicant.

(4) A name reservation may be transferred only by a signed written notice that complies with the requirements of the Code.

Cite as Ga. Comp. R. & Regs. R. 590-7-11-.04
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Issuance of Name Reservation Certificate" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-11-.05. Distinguishable Names.

The Secretary of State will deny a request for a name certificate or proposed entity name if such name is identical to or not distinguishable from the name of any existing entity or active name reservation on file and of record with the Secretary of State pursuant to Title 14 of the Code. Without limiting the discretion of the Secretary of State to determine that a name is not distinguishable, a requested name shall be deemed "not distinguishable" from an existing entity name or active name reservation if the difference between the names results from any one or more of the following:

(a) An article (e.g. "a," "an," "the");

(b) Plural or possessive forms of the same word;

(c) Phonetic spelling of the same name or word;

(d) A conjunction or disjunction (e.g. "and," "&," "or");

(e) An abbreviation in place of a complete spelling of the word or name;

(f) A suffix added to a word or any other deviation from or derivative of the same word;

(g) A change in a word or name indicating corporate or business entity status;

(h) The addition or omission of punctuation, symbols, special characters, or spaces;

(i) A symbol or special character in place of a word or name (e.g. "and" and "&"; "at" and "@"); and

(j) A numerical number in Arabic or Roman numeral(s) and the same number spelled out with letters of the alphabet.

Cite as Ga. Comp. R. & Regs. R. 590-7-11-.05
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Distinguishable Names" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-11-.06. Restricted Names.

(1) The Secretary of State may refuse to grant a request for a name certificate or a proposed entity name if such requested name contains the name of any entity on file with the Secretary of State pursuant to Title 14 of the Code. A request for a name certificate or proposed entity name may be granted if the applicant obtains express written permission from the entity regarding the use of the name, and the names are otherwise distinguishable or the other entity files with the Secretary of State an appropriate document to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying limited partnership.

(2) The Secretary of State may refuse to grant a request for a name certificate or a proposed entity name if such requested name contains any word whose use is restricted by any provision of the Official Code of Georgia Annotated.

(3) The Secretary of State may restrict from use, require consent, or require further information before certain terms shall be used in a limited partnership or foreign limited partnership name. A list of said terms shall be posted in the same public access area of the Division offices as the fee and penalty listing maintained pursuant to Rule 590-7-10-.07. Said list shall be available upon request. The restricted terms shall be deemed to include the name of any well-known trademark, tradename, governmental agency, educational organization or institution, charitable organization, or professional organization.

Cite as Ga. Comp. R. & Regs. R. 590-7-11-.06
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Renewal of Name Reservation" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: Rule 590-7-11-.06 has been repealed by ER. 590-7-11-0.30-.06. F. Apr. 9, 1990; eff. Apr. 9, 1990, as specified by the Agency.
Repealed: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Adopted. New Rule entitled "Restricted Names." F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-11-.07. Contested Cases.

(1) The Secretary of State is not authorized to intervene in a private name infringement action. The Secretary of State may provide certified copies of any public document filed pursuant to the Code and the rules promulgated thereunder.

(2) The Secretary of State may, prior to the issuance of a certificate of limited partnership or a certificate of authority by the Secretary of State, revoke a name certificate if the certificate is issued for a name which is not distinguishable from the name of another entity filed with the Secretary of State or the name contains any word whose use is restricted by any provision of the Code and rules promulgated thereunder.

(3) In the event that a certificate of limited partnership or certificate of authority has been issued by the Secretary of State and the name is not distinguishable from the name of another entity filed with the Secretary of State under Title 14 of the Official Code of Georgia Annotated, or the name contains any word whose use is restricted by any provision of the Code or rules promulgated thereunder, the following actions may be taken:

(a) The Secretary of State may issue an order directing the limited partnership to file an amended certificate of limited partnership or articles of correction changing its name to a name that is available for use in this state or directing a foreign limited partnership to file an application for amended certificate of authority changing its name to a name that is available for use in this state. Since this is a ministerial correction of documents, the limited partnership shall not be required to pay a fee to the Secretary of State for such filing.

(b) In the event that the domestic or foreign limited partnership fails to file the appropriate documents to change its name, the Secretary of State may mark the records maintained by the Secretary of State to show the entity's noncompliance and may certify the record to the Attorney General of Georgia and request that the Attorney General begin proceedings to terminate the limited partnership or restrain it from transacting business in this state pursuant to the Code.

Cite as Ga. Comp. R. & Regs. R. 590-7-11-.07
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Contested Cases" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Aug. 7, 1990; eff. Aug. 28, 1990, as specified by the Agency.
Amended: F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-11-.08. Prohibited Acts.

(1) No person shall reserve a limited partnership name in this State unless such name is reserved in compliance with O.C.G.A. Section 14-9-103.

(2) No person shall register a foreign limited partnership name in this State unless such is registered in compliance with O.C.G.A. Sections 14-9-102, 14-9-103 and 14-9-904.

Cite as Ga. Comp. R. & Regs. R. 590-7-11-.08
Authority: O.C.G.A. Secs. 14-9-102, 14-9-103, 14-9-104, 14-9-904, 14-9-1101, 14-9-1102.
History. Original Rule entitled "Prohibited Acts" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."

Rule 590-7-11-.09. Foreign/Domestic Limited Partnerships Distinguished.

(1) In an application for a certificate of authority, a foreign limited partnership may distinguish its name from that of a domestic limited partnership by adding a distinguishing element, such as the name of the state where it is organized, in parentheses to its name in such application.

(2) The name in a certificate issued to a foreign limited partnership shall include such distinguishing element and such name shall be used by the foreign limited partnership in all dealings with the Secretary of State and in the conduct of its affairs in this State.

(3) A foreign limited partnership which was organized and transacting business in this State prior to the effective date of the Georgia Revised Uniform Limited Partnership Act may apply for a certificate of authority provided that, if necessary, its name shall be distinguished on the records of the Secretary of State by adding to such name the name of the state in which it was organized and, if necessary, by adding a numerical distinction to the name. Such distinction(s) shall be solely for the purpose of distinguishing limited partnerships on the files of the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-11-.09
Authority: O.C.G.A. Secs. 14-9-904, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Foreign/Domestic Limited Partnerships Distinguished" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Rule 590-7-11-.10. Domestic Limited Partnerships Distinguished.

(1) The name of a place or location attached to one or more otherwise indistinguishable or identical names may sufficiently distinguish between two domestic limited partnerships.

(2) A name which is otherwise unavailable to a limited partnership which files with the Secretary of State under O.C.G.A. Section 14-9-1201(b) may be distinguished by adding:

(a) "(L.P.)" to the name of the limited partnership on the Secretary's records; and

(b) In parentheses, the name of the county in which it was organized. A numerical distinction shall be added to the county name to distinguish any multiple filings of limited partnerships organized in the same county.

These distinctions shall be solely to distinguish limited partnerships on the files of the Secretary of State and shall have no effect otherwise on the authority to use the name under which it was organized.

Cite as Ga. Comp. R. & Regs. R. 590-7-11-.10
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Domestic limited Partnerships Distinguished" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Subject 590-7-12. LIMITED PARTNERSHIPS - FILING OF DOCUMENTS.

Rule 590-7-12-.01. Filing of Documents.

(1) The filing of documents by a domestic or foreign limited partnership shall be made with the Secretary of State in the following manner:

(a) By mailing the required documents and fees to the Secretary of State at 2 Martin Luther King Jr. Drive, Suite 313 West Tower, Atlanta, Georgia 30334;

(b) By delivering the required documents and fees to the Secretary of State at the address referred to in subparagraph (a) above; or

(c) By electric transmission in the manner authorized by the Division on its website.

(2) Documents filed at the office of the Secretary of State shall be processed in time receipt order. Expedited processing of filings may be requested.

(3) The documents presented for filing shall be written in English, shall be of sufficient quality for legible reproduction by microfilm and shall be typed or printed on white, letter-size (8 1/2" x 11") paper in black or blue ink only.

(4) The certificate of limited partnership and the transmittal information form may be signed by legal counsel on behalf of the limited partnership. The Secretary of State may require documents to be filed establishing a power of attorney or attorney in fact pursuant to O.C.G.A. Section 14-9-204(b).

Cite as Ga. Comp. R. & Regs. R. 590-7-12-.01
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Application" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Amended: F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Amended: New title "Filing of Documents." F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-12-.02. Transmittal Information Form.

All certificates of limited partnership shall include a transmittal information form as prescribed by the Secretary of State. Information contained on the form shall be used by the Secretary of State for entry into the automated database. The Secretary of State or his or her staff shall enter the information contained on the form and shall not be responsible for any errors or omissions on said form. The form shall be attached to and made a part of the original certificate of limited partnership on file with the Secretary of State, including a certificate of limited partnership that is filed as part of a certificate of conversion.

Cite as Ga. Comp. R. & Regs. R. 590-7-12-.02
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Application" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Transmittal Information Form" adopted. F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-12-.03. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-7-12-.03
Authority: O.C.G.A. §§ 14-9-1102, 14-9-1103.
History. Original Rule entitled "Expedited Processing" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Repealed: F. Sep. 30, 2013; eff. Oct. 20, 2013.

Rule 590-7-12-.04. Additional Information.

(1) **Correct mailing address**. The applicant shall provide the Secretary of State with a correct mailing address, which may be a post office box or street address.

(2) **Registered office address**. The applicant shall also provide the Secretary of State with a registered office address where service of process may be effectuated.

(3) **County of initial registered office**. The applicant shall include the name of the County of the initial registered office.

(4) **Names and addresses of general partners**. Subject to the requirements of O.C.G.A. Section 14-9-201, the certificate of limited partnership shall set forth the name, business address, and signature of each general partner.

(5) **Consent of Registered Agent**. The initial registered agent must consent to appointment as limited partnership registered agent. If the registered agent and applicant is the same person or entity, the signature of the applicant shall constitute consent to serve as registered agent.

Cite as Ga. Comp. R. & Regs. R. 590-7-12-.04
Authority: O.C.G.A. Secs. 14-9-201, 14-9-204, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Additional Information" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Rule 590-7-12-.05. Returned Documents.

(1) **Documents must be complete.** The Secretary of State may return any documents that are not complete and appropriate for filing as prescribed by the Code and the rules promulgated thereunder. The returned documents will be accompanied by a Deficient Document Notice explaining the deficiency and an acknowledgement of receipt by the Secretary of State of the filing fee.

(2) **Filing date.** The documents may be corrected by the applicant and returned to the Secretary of State for processing. The applicant must attach to the corrected and returned documents the Deficient Document Notice issued by the Secretary of State. If the documents are returned to the Secretary of State by the applicant within thirty (30) days of the date of the Deficient Document Notice, the filing date will be the date the filing was initially received by the Secretary of State.

(3) **Abandoned filings.** If the filing is not returned to and received by the Secretary of State within sixty (60) days of the date of the Deficient Document Notice, it will be deemed abandoned, and all records pertaining to the filing will be destroyed by the Secretary of State. After a filing is deemed abandoned, a new filing, including the payment of filing fees and any penalties, will be required to complete the filing.

Cite as Ga. Comp. R. & Regs. R. 590-7-12-.05
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Returned Documents" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Jan. 25, 2013; eff. Feb. 14, 2013.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-12-.06. Preclearance.

(1) Documents may be submitted to the Secretary of State for preclearance examination. The purpose of preclearance examination is to confirm that the proposed document conforms

to the filing provisions of the Code prior to the actual submittal of the document for filing with the Secretary of State.

(2) Preclearance is available for any document required or permitted to be filed with the Secretary of State pursuant to Title 14 of the Official Code of Georgia Annotated, as amended.

(3) The fee for preclearance is set forth on the fee schedule maintained by the Secretary of State. The preclearance of a document may be expedited.

(4) Preclearance of documents does not reserve an entity name.

Cite as Ga. Comp. R. & Regs. R. 590-7-12-.06
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Fees" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Repealed: F. Sep. 30, 2013; eff. Oct. 20, 2013.
Adopted: New Rule entitled "Preclearance." F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-12-.07. Amendments and Other Subsequent Filings.

(1) The Secretary of State shall endorse all amendments, mergers, cancellations, and other subsequent filings with a stamp certificate acknowledging the filing and stating the time and date of such filings. Amendments and other subsequent filings must be executed in accordance with the Code.

(2) All amendments and subsequent filings shall include the charter or control number of the limited partnership and the date of its original application.

(3) Mergers between corporations and limited partnerships will not be accepted unless authorized by law.

(4) All amendments and subsequent filings must include the fees required by law and the fee schedule maintained by the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-12-.07
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Amendments and Other Subsequent Filings" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-12-.08. Foreign Limited Partnerships.

(1) **Initial qualification.**

(a) A foreign limited partnership transacting business in this State shall procure a certificate of authority to do so from the Secretary of State. This certificate may be procured by the filing of the application for certificate of authority form for foreign limited partnerships, as prescribed by the Secretary of State, and the payment of the fees as set forth in the fee schedule published by the Secretary of State. A foreign limited partnership does not have to file a certified certificate of existence from its home state in order to obtain a certificate of authority in Georgia.

(b) The application for certificate of authority form, as prescribed by the Secretary of State, shall contain the information required by O.C.G.A. Section 14-9-902 and any other information necessary to determine whether the applicant is subject to any fees or penalties imposed by the Code or the fee schedule published by the Commissioner.

(2) **Subsequent filings.** Each foreign limited partnership qualified to do business in this State shall maintain its qualification in its home state. All filings required by such state must be current in order to maintain good standing of active status in Georgia. Such limited partnership is required to file an annual registration in Georgia between January 1 and April 1 of each year. Limited partnership action resulting in a change of the limited partnership name, change in the state of formation, or withdrawal from doing business in this State must be filed directly with the Secretary of State. All other limited partnership actions requiring filings will be deemed to be filed with the Secretary of State if properly filed in the state of formation. The foreign limited partnership, by filing its application for authority, undertakes to promptly provide such filings to the Secretary of State upon request.

(3) **Time period for qualification; penalties.** A foreign limited partnership may not transact business in this state until it obtains a certificate of authority from the Secretary of State. If a foreign limited partnership does not obtain said certificate within 30 days of the commencement of business in Georgia, the foreign limited partnership shall be liable for the civil penalty set forth in the Code, in addition to any other fees and/or penalties which may be assessed for transacting business in this state without a certificate of authority.

Cite as Ga. Comp. R. & Regs. R. 590-7-12-.08
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Foreign Limited Partnerships" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Subject 590-7-13. LIMITED PARTNERSHIPS - ANNUAL REGISTRATION.

Rule 590-7-13-.01. Annual Registration Processing.

The Secretary of State or his agent shall receive the incoming annual registrations. It is the responsibility of the Division to promptly process and record the filing of annual registrations pursuant to the Code. The Division may designate an agent or agents to assist in the administrative duties concerning annual registrations.

Cite as Ga. Comp. R. & Regs. R. 590-7-13-.01
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Annual Registration Processing" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-13-.02. New Registration Filings.

A newly organized domestic limited partnership, or a newly qualified foreign limited partnership, shall file an annual registration with the Secretary of State on a form provided by the Secretary of State, and pay the fee set forth in the fee schedule published by the Secretary of State, between January 1 and April 1 of the year following the calendar year of the new registration filing.

Cite as Ga. Comp. R. & Regs. R. 590-7-13-.02
Authority: O.C.G.A. §§ 14-9-206.5, 14-9-1102 and 14-9-1103.
History. Original Rule entitled "New Registration Filings" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Rule 590-7-13-.03. Annual Registration Filings.

Each limited partnership registered to do business in this State shall, between January 1 and April 1 of each year, file an annual registration with the Secretary of State. This annual registration shall be on forms provided by the Secretary of State, shall contain the information required to be on an annual registration as set forth in the Code, and shall include the payment of the fee and penalties set forth in the Code and the fee schedule maintained by the Secretary of State. The Secretary of State may provide for the electronic filing of annual registrations.

Cite as Ga. Comp. R. & Regs. R. 590-7-13-.03
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Annual Registration Filings" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-13-.04. Depository.

The Secretary of State may designate a depository for receipt of annual registration filings and fees on an annual basis, in accordance with the lockbox criteria developed and administered by the Department of Administrative Services (DOAS). The depository may perform certain ministerial services on behalf of the Secretary of State in order to fulfill the lockbox functions as

set forth by DOAS and these Rules. The selected depository shall enter into an agreement with the Secretary of State that any goods and services provided the Division under the agreement will be subject to appropriate purchasing procedures and any relevant state laws.

Cite as Ga. Comp. R. & Regs. R. 590-7-13-.04
Authority: O.C.G.A. §§ 14-9-1102 and 14-9-1103.
History. Original Rule entitled "Depository" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Rule 590-7-13-.05. Valid Period of Annual Registration.

(1) Notwithstanding any other law or rule to the contrary, each domestic limited partnership, foreign limited partnership, and foreign limited liability partnership may file an annual registration to be valid for a period up to and including three calendar years.

(2) On an annual registration, each domestic limited partnership, foreign limited partnership, or foreign limited liability partnership shall designate a period of one year, two years, or three years as the valid annual registration period of said annual registration filing. The annual registration filing shall be accompanied by the payment of the fee and penalties set forth in the Code and the fee schedule maintained by the Secretary of State for each calendar year included in the designated annual registration period.

(3) A limited partnership's or limited liability partnership's next annual registration is due between January 1 and April 1 of the first calendar year following the end of the designated annual registration period in its most recent annual registration filing.

(4) If changes need to be made to a limited partnership's or limited liability partnership's principal office address, general partner(s)'s address, registered agent, and/or registered office information on file with the Secretary of State prior to the next annual registration being due, then an amended annual registration shall be filed with the Secretary of State. The payment of the fee for an amended annual registration filing as set forth in the Code and the fee schedule maintained by the Secretary of State must accompany any such filing.

(5) Annual registration fees will not be refunded if a limited partnership or limited liability partnership is cancelled, dissolved, merged out of existence, or withdrawn prior to the end of an annual registration period.

Cite as Ga. Comp. R. & Regs. R. 590-7-13-.05
Authority: O.C.G.A. §§ 14-5-23, 14-9-206.9, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Computer Tape" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Repealed: F. Nov. 26, 2018; eff. Dec. 16, 2018.
Adopted: New Rule entitled "Valid Period of Annual Registration." F. July 23, 2019; eff. August 12, 2019.

Rule 590-7-13-.06. Annual Registration Notifications.

(1) **Form**. The Secretary of State shall design the annual registration form. This form shall contain specific filing instructions.

(2) **Distribution.** The Secretary of State or his or her agent shall prepare and send the annual registration notices to registered limited partnerships.

(3) **Notification.** All active limited partnerships will be sent an annual registration notification as soon as possible after January 1 of each year. Annual registration notices may be sent by mail or by electronic methods, such as email. Annual registration notices will not be forwarded to:

   (a) Those limited partnerships that have failed to file an annual registration for the past three years;

   (b) Those limited partnerships that have notified the Secretary of State that they are no longer in business or are inactive;

   (c) Those limited partnerships that fail to maintain a valid mailing address on file with the Secretary of State; and

   (d) Those limited partnerships that have been dissolved, withdrawn, or cancelled.

Cite as Ga. Comp. R. & Regs. R. 590-7-13-.06
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Annual Registration Notifications" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: New title "Annual Registration Notifications. Amended." F. Jan. 3, 2013; eff. Jan. 23, 2013.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-13-.07. [Repealed].

Cite as Ga. Comp. R. & Regs. R. 590-7-13-.07
Authority: O.C.G.A. §§ 14-9-1102, 14-9-1103.
History. Original Rule entitled "Annual Registration Processing" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Repealed: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-13-.08. Annual Registration Updating.

The Division may update the annual registration data or employ the services of an outside contractor to update the annual registration data. If the form is not properly signed the Secretary of State is authorized to accept the filing and allow the signature on the check used to pay the fee to verify the existence of the facts on the form. Unless otherwise indicated, the signature on the

annual registration form shall be deemed to be the signature of an authorized limited partnership officer. The registered agent will not be updated or changed unless the signature of the new registered agent is on the form. The Secretary of State is authorized to enter into a contract or agreement to provide for the updating of annual registration information.

Cite as Ga. Comp. R. & Regs. R. 590-7-13-.08
Authority: O.C.G.A. §§ 14-9-1102 and 14-9-1103.
History. Original Rule entitled "Annual Registration Updating" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Rule 590-7-13-.09. Retention of Annual Registrations.

The Secretary of State shall maintain all filed annual registrations for a period of five (5) years.

Cite as Ga. Comp. R. & Regs. R. 590-7-13-.09
Authority: O.C.G.A. §§ 14-9-1102 and 14-9-1103.
History. Original Rule entitled "Retention of Annual Registrations" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Rule 590-7-13-.10. Failure to File Annual Registration.

A limited partnership that fails to file its annual registration statement may be assessed a penalty in an amount set forth in the fee schedule published by the Secretary of State and may not maintain a proceeding in any court in the State. In addition to any other sanction, a limited partnership which fails for three consecutive years to file its annual registration with the Secretary of State may be placed on an "inactive filing status" in the automated database of the Secretary of State, pursuant to Rule 590-7-16-.02 of these rules.

Cite as Ga. Comp. R. & Regs. R. 590-7-13-.10
Authority: O.C.G.A. §§ 14-9-206.6, 14-9-206.7, 14-9-1102 and 14-9-1103.
History. Original Rule entitled "Failure to File Annual Registration" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Rule 590-7-13-.11. Extensions of Filing Time.

The Secretary of State may extend the time of filing of the annual registration if he or she determines that it is in the public interest to do so and if additional time is needed to complete the updating of the limited partnership information and payment records of the limited partnership. In the event an order is issued regarding such extension, the Secretary of State is authorized to issue certificates of existence on those limited partnerships that are current through the preceding year.

Cite as Ga. Comp. R. & Regs. R. 590-7-13-.11
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Extensions of Filing Time" was filed on June 10, 1988; effective July 1, 1988, as

specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Subject 590-7-14. LIMITED PARTNERSHIPS - SECRETARY OF STATE INFORMATION CENTER.

Rule 590-7-14-.01. Limited Partnership/Corporation Information Center.

The Corporate Information Center ("CIC") established and maintained by the Secretary of State to promptly provide to the general public information on corporations registered and doing business in the State of Georgia shall also be maintained to provide information on limited partnerships registered and doing business in the State of Georgia.

Cite as Ga. Comp. R. & Regs. R. 590-7-14-.01
Authority: O.C.G.A. Secs. 14-9-1102, 14-9-1103.
History. Original Rule entitled "Limited Partnership/Corporation Information Center" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Rule 590-7-14-.02. Telephone Inquiries.

(1) The Secretary of State, during normal business hours, will accept up to three (3) limited partnership or corporate inquiries per telephone call.

(2) The only information provided by telephonic inquiry shall be the information readily available from the automated database.

(3) The person requesting information will be informed whether the requested information is available in the automated database.

(4) The following information, if available on the computer system, will be provided:

(a) Correct limited partnership name;

(b) Type of limited partnership;

(c) Status;

(d) Date organized;

(e) Registered office and agent;

(f) Annual registration status;

(g) County/State of original organization;

(h) General partners.

1. Up to three (3) names and addresses of general partners will be listed in the system and available by telephone inquiry.

2. The names of all general partners are available by mail by requesting a copy of the certificate of limited partnership and all amendments.

(5) If the information is not readily available from the automated database, the person requesting the information may place an order to have the information provided by mail.

(6) The order will be reviewed to determine if the information requested is available from the automated database, the microfilm files and other records maintained by the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-14-.02
Authority: O.C.G.A. Secs. 14-9-1102, 14-9-1103.
History. Original Rule entitled "Telephone Inquiries" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Rule 590-7-14-.03. [Repealed].

Cite as Ga. Comp. R. & Regs. R. 590-7-14-.03
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Payment of Charges" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Repealed:F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-14-.04. Legal Interpretations.

The personnel in the CIC and Division are not authorized to provide legal interpretations concerning the Code or to provide tax and business advice.

Cite as Ga. Comp. R. & Regs. R. 590-7-14-.04
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Legal Interpretations" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Subject 590-7-15. LIMITED PARTNERSHIPS-CERTIFICATION OF DOCUMENTS.

Rule 590-7-15-.01. Certificates, Copies, and Certified Copies.

(1) The Secretary of State shall provide:

(a) Copies or certified copies of any document, instrument, data, or paper relating to a limited partnership as available on the automated database, microfilm files or other records maintained by the Secretary of State.; and

(b) Certificates as authorized by the Code and rules promulgated thereunder.

(2) The Secretary of State is authorized to establish and impose minimum fees for the production and delivery of requested documents and certificates. Charges for such certificates and services shall be those published in the fee schedule maintained by the Secretary of State.

(3) Certificates and documents must be requested in written form or in electronic form, if available.

(4) The use of electronic ordering shall be in the manner authorized by the Secretary of State for such purpose. The Secretary of State may establish minimum fees for such electronic orders and provide for electronic funds transfer for the payment of such fees.

(5) Applicants must pay the applicable fees in advance, unless arrangements have been previously approved for invoicing charges for services.

(6) A submitted order will be reviewed to determine if copies and certificates can be prepared as requested, based on information contained in the automated database, the microfilm files, and the other records maintained by the Secretary of State. An order will be considered to have been completed when the order is processed or rejected and supporting documentation has been forwarded to the applicant.

(7) Pickup service is not available unless expedited processing is requested and approved.

(8) Expedited processing certificates may be obtained by submitting a request for such expedited processing. Expedited service may not be available if the requested documents have been referred to the Georgia Archives or other off-site storage facilities. The request for expedited processing must be accompanied by the payment of the fee published in the fee schedule maintained by the Secretary of State, in addition to the applicable service fee. Form of payment shall be in the manner provided in Rule 590-7-10-.08. In the event expedited service is authorized, the documents, if available, and the certificate will be prepared and furnished within the time frame specified on the fee schedule maintained by the Secretary of State. An expedited request for copies or certificates will be considered to have been completed when the order is processed or rejected and supporting documentation has been forwarded to the applicant.

Cite as Ga. Comp. R. & Regs. R. 590-7-15-.01
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.

History. Original Rule entitled "Certificates" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Sep. 30, 2013; eff. Oct. 20, 2013.
Amended: New title "Certificates, Copies, and Certified Copies." F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-15-.02. Requests for Information.

(1) The Secretary of State may accept, but is not required to accept, telephone or electronic requests for copies of documents and the certification of such documents.

(2) The applicant will be informed whether the requested documents are available based on the information contained in the automated database. All documents regarding foreign limited partnerships must be requested from the state in which the foreign limited partnership was originally organized ("home state") except the following documents if such information or document is on file with the Secretary of State.

   (a) Application for a Certificate of Authority or amended Certificate of Authority;

   (b) Certificate of Authority to transact business;

   (c) Annual registration in Georgia.

(3) If the documents appear to be available, the applicant may place an order for said documents or certificates as provided in Rule 590-7-15-.01.

Cite as Ga. Comp. R. & Regs. R. 590-7-15-.02
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Requests for Information" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-15-.03. [Repealed].

Cite as Ga. Comp. R. & Regs. R. 590-7-15-.03
Authority: O.C.G.A. §§ 14-9-1101, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Payment of Charges" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Repealed: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-15-.04. Certificate of Limited Partnership History (Long Form Certificate).

If a written request is made, the Secretary of State will provide a certificate of limited partnership history. A cost reimbursement will be assessed and will be based on the amount of research time needed to prepare the certificate. The minimum charge for a complete historic research and the production of documents and certificates shall be published in the fee schedule published and maintained by the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-15-.04
Authority: O.C.G.A. §§ 14-9-1102 and 14-9-1103.
History. Original Rule entitled "Certificate of Limited Partnership (Long Form Certificate)" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Rule 590-7-15-.05. Forms of Certificates.

(1) The certificates provided by the Secretary of State shall include, but are not limited to, the following:

(a) **Certificate of Existence.** This certificate is generated from the automated database for active limited partnerships in good standing and in compliance with the applicable filing and annual registration provisions of the Code.

(b) **Certificate of Search.** This certificate is generated from the automated database for entities not found filed of record with the Secretary of State.

(c) **Certificate of Noncompliance.** This certificate is generated from the automated database for domestic and foreign limited partnerships on file with the Secretary of State that are not in good standing and are not in compliance with the applicable filing and annual registration provisions of the Code.

(d) **Certificate of Registered Agent and Registered Office.** This certificate is generated from the automated database and states the registered agent and registered office of record for a domestic or foreign limited partnership.

(e) **Certified Copies of Documents.** This certificate is generated from the automated database for any document, instrument, or paper relating to a domestic or foreign limited partnership as available on the automated database, microfilm files, or other records maintained by the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-15-.05
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Forms of Certificates" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Subject 590-7-16. LIMITED PARTNERSHIPS-CANCELLATIONS, REVOCATIONS AND WITHDRAWALS.

Rule 590-7-16-.01. Compliance with Filing Requirements.

(1) All limited partnerships shall be in compliance with the annual registration filing requirements of the Code and all fees and penalties must be paid prior to the Secretary of State issuing a certificate of cancellation, a certificate of withdrawal, or a certificate of merger. Any limited partnership that applies for cancellation, dissolution, withdrawal, or merger out of existence between January 1 and April 1 of any year must file an annual registration for that calendar year and pay the required fees; provided, however, that an annual registration is not required to be filed if the limited partnership is applying for cancellation, withdrawal, or merger out of existence in the same calendar year that it was formed or authorized to transact business in Georgia.

(2) All fees and penalties shall be paid prior to any certificate of cancellation, certificate of withdrawal, or certificate of merger being issued by the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-16-.01
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Compliance with Filing Requirements" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-16-.02. Domestic Limited Partnerships.

(1) **Voluntary Cancellation.**

(a) Each limited partnership must file a certificate of cancellation with the Secretary of State. Said certificate shall be marked with the time and date of receipt and a copy of said certificate shall be returned to the limited partnership.

(b) At the time of the filing of the certificate of cancellation, the limited partnership must be in compliance with the filing requirements of the Code and all fees and penalties must be paid.

(c) The certificate of cancellation shall be in the form prescribed by the Code.

(d) A certificate shall be issued by the Secretary of State if he or she finds the filing to contain the necessary information and documents.

(e) The automated database shall be marked to reflect the cancellation, and the certificate of cancellation shall be filed with other documents relating to the limited partnership.

(2) **Inactive Status.** The Secretary of State may place a domestic limited partnership on inactive filing status if the domestic limited partnership fails to file its annual registration for three (3) consecutive years. The name of a limited partnership placed on inactive filing status shall become available for registration and/or for reservation pursuant to O.C.G.A. Section 14-9-103.

(3) **Reactivation from Inactive Status.** In order for a domestic limited partnership to be reinstated to active status on the records of the Secretary of State, an annual registration form must be filed and all back fees and penalties accrued under the Code must be paid. If the name of the limited partnership is no longer available, the domestic limited partnership must change its name in accordance with the Code and must file an amendment to its Certificate of Limited Partnership changing its name before the limited partnership shall be restored to active status.

Cite as Ga. Comp. R. & Regs. R. 590-7-16-.02
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Domestic Limited Partnership" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Repealed: New Rule same title, adopted F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-16-.03. Foreign Limited Partnerships.

(1) **Withdrawal.**

(a) Each foreign limited partnership must file an application for a certificate of withdrawal in order to terminate its authority to transact business in this state.

(b) At the time of the filing of the application for a certificate of withdrawal, the foreign limited partnership must be in compliance with the filing requirements of the Code and all fees and penalties must be paid, including the annual registration due the calendar year of withdrawal.

(c) A certificate of withdrawal shall be issued by the Secretary of State if he or she finds the filing to contain the necessary information and documents.

(d) The automated database shall be marked to reflect the withdrawal, and the certificate of withdrawal and application shall be filed with other documents relating to the foreign limited partnership.

(2) **Inactive Status.** The Secretary of State may place a foreign limited partnership on inactive filing status if a foreign limited partnership fails to file its annual registration for three (3) consecutive years. The name of a limited partnership placed on inactive filing

status shall become available for registration and/or for reservation pursuant to O.C.G.A. Section 14-9-103.

(3) **Reactivation from Inactive Status.** In order for a foreign limited partnership to be reinstated to active status on the records for the Secretary of State, an annual registration form must be filed and all back fees and penalties accrued under the Code must be paid. If the name of the foreign limited partnership is no longer available, the foreign limited partnership must change its name in accordance with the Code and must file an amendment to its Certificate of Authority changing its name before the foreign limited partnership shall be restored to active status.

Cite as Ga. Comp. R. & Regs. R. 590-7-16-.03
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Foreign Limited Partnership" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Repealed: New Rule same title, adopted F. Jul. 1, 1993; eff. July 21, 1993.
Note: Subsequent ER adoptions of Rule filed by Agency; see "Admin. Hist."
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Subject 590-7-17. LIMITED PARTNERSHIPS-AUTOMATED DATA PROCESSING SYSTEM.

Rule 590-7-17-.01. Authority.

The Secretary of State is authorized to establish and maintain a corporate database on electronic data processing equipment. The equipment and software must be procured, developed and maintained in accordance with standards set forth and approved by the Computer Services Division of the Department of Administrative Services (DOAS). The corporate database shall also include and maintain information on limited partnerships.

Cite as Ga. Comp. R. & Regs. R. 590-7-17-.01
Authority: O.C.G.A. §§ 14-9-1102 and 14-9-1103.
History. Original Rule entitled "Authority" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Rule 590-7-17-.02. Records.

(1) The Secretary of State is authorized to maintain all records and documents required or authorized to be filed by the Code, including but not limited to, applications, certificates, cancellations, amendments, annual registrations and merger documents, in original form or by means of microfilm, microfiche, microphotographic reproduction, photographic reproduction, word processing, computerization, optical disk, electronic disk or diskette storage or other acceptable reproductive methods.

(2) The Secretary of State, after verification of the historic microfilm of limited partnership documents to the automated database maintained by the Secretary of State, may rely on such automated database for the purpose of providing limited partnership information, certifications, and the issuance of limited partnership name certificates.

(3) The Secretary of State shall maintain the integrity of the automated database in accordance with standards prescribed by the Georgia Department of Administrative Services and any Georgia laws. In the event of a malfunction in the electronic equipment or errors in the software programs, the Secretary of State shall not be liable for the release of incorrect limited partnership data or the issuance of a limited partnership name certificate that is not distinguishable from another corporation or limited partnership filed pursuant to the Code.

Cite as Ga. Comp. R. & Regs. R. 590-7-17-.02
Authority: O.C.G.A. §§ 14-9-1102, 14-9-1103 and 14-9-1104.
History. Original Rule entitled "Records" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Rule 590-7-17-.03. Public Access.

(1) The Secretary of State has determined that it is in the public interest to provide efficient and immediate access to the information contained in the automated database. Pursuant to these rules and subject to equipment availability, direct access to the database shall be provided on a non-discriminatory basis.

(2) The Secretary of State is authorized to provide inquiry only access to the automated database on a terminal located in the public access area of the Division, if he finds that it is in the public interest to provide such service and sufficient equipment is available to accommodate the demand for such service. In order to provide equal access to the information the Secretary of State is authorized to post a use time schedule for access to such terminal.

(3) The Secretary of State may enter into agreements to provide direct access to the automated database with Corporate Services Organizations, provided that:

(a) The Secretary of State determines that access to and the intended use of the data is not adverse to the public interest;

(b) the automated data processing equipment will support the demands placed on its operation by the Corporate Service Organization; and

(c) the Corporate Service Organization:

1. files an application with the Secretary of State that will include the intended use of the data to the Secretary of State and provides to the Secretary of State the information requested on the application form;

2. agrees to conform with the policies and procedures set forth by the Secretary of State concerning the utilization of the access;

3. pays the installation and service charge set forth in published fees and services charges maintained by the Secretary of State;

4. agrees to pay the transaction fees and charges set forth in the published fees and service charges maintained by the Secretary of State or establishes a depository account to be used for the payment of such fees or charges;

5. agrees to pay the cost of any software necessary to provide direct access; and

6. provides and pays for all modems, data transmission lines and communications equipment and charges directly related to the access.

(4) The Secretary of State may disconnect the direct access provided by this Rule in the event he determines, after notice and opportunity for hearing, that:

(a) the automated data processing equipment will not support direct access and will not allow the staff of the Secretary of State to perform its required functions;

(b) the Corporate Service Organization is violating the terms of its agreement with the Secretary of State or its use of access is not in the public interest; or

(c) The Corporate Service Organization is delinquent in payments to the Secretary of State of charges due under the terms of the agreement and as published in the fees and charges maintained by the Secretary of State.

(5) Neither the Secretary of State, nor his staff, shall be liable for any services or information provided by a Corporate Service Organization to any person or entity.

Cite as Ga. Comp. R. & Regs. R. 590-7-17-.03
Authority: O.C.G.A. §§ 14-9-1102, 14-9-1103 and 14-9-1104.
History. Original Rule entitled "Public Access" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Rule 590-7-17-.04. Electronic Filings.

(1) The Secretary of State is authorized to accept electronic filings for all documents authorized, permitted, or required to be filed under the Code, including, but not limited to certificates of limited partnership, applications for certificates of authority, annual registrations, amendments, mergers, consolidations, cancellations, annual registrations, and changes of registered agents or offices.

(2) Prior to accepting electronic filings the Secretary of State shall:

(a) determine that appropriate and sufficient security precautions have been advised to maintain the integrity of the filings and the database;

(b) obtain the approval from the Computer Services Division of the Department of Administrative Services certifying that adequate electronic safeguards exist to maintain the integrity of the electronic files; and

(c) determine that it is in the public interest to offer electronic filings to the public.

(3) The Secretary of State is authorized to develop and publish policies and procedures necessary to effectuate electronic filings into the corporate database. Such policies and procedures shall be made available to applicants seeking approval to utilize electronic filing.

Cite as Ga. Comp. R. & Regs. R. 590-7-17-.04
Authority: O.C.G.A. §§ 14-9-1102 and 14-9-1103.
History. Original Rule entitled "Electronic Filings" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Rule 590-7-17-.05. Service Charges.

The Secretary of State may impose service charges in order to have immediate electronic access to, or the ability to make electronic filings into, the corporate database or a database maintained by a Corporate Service Organization. Such charges shall be posted on the Fee Schedule prepared and maintained by the Secretary of State. Service charges may only be changed by the posting by the Secretary of State of such changes in the public access area of the Division offices for a minimum of thirty (30) days prior to any such change being effective.

Cite as Ga. Comp. R. & Regs. R. 590-7-17-.05
Authority: O.C.G.A. §§ 14-9-1102 and 14-9-1103.
History. Original Rule entitled "Service Charges" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Subject 590-7-18. LIMITED PARTNERSHIPS-SERVICE OF PROCESS.

Rule 590-7-18-.01. Designated Agents.

The Secretary of State or Assistant Corporation Commissioner, by written order, shall designate certain staff members in the Division to accept service of process on behalf of the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-18-.01
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Designated Agents" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-18-.02. Receipt of Service.

(1) Whenever by statute the Secretary of State is appointed or deemed to have been appointed the agent of any individual or entity for the purpose of service of any process, the Secretary of State may be served by:

(a) Mailing the required documents and fees to the Secretary of State at 2 Martin Luther King Jr. Drive, Suite 313 West Tower, Atlanta, Georgia 30334;

(b) Delivering the required documents and fees to the address referred to in subparagraph (a) above; or

(c) By electronic transmission in the manner authorized by the Division on its website.

Cite as Ga. Comp. R. & Regs. R. 590-7-18-.02
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Receipt of Service" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-18-.03. Processing.

(1) Service of process documents filed at the office of the Secretary of State shall be processed in time receipt order. Expedited processing shall not be available for service of process filings.

(2) All requests for service of process on the Secretary of State concerning domestic or foreign limited partnerships shall be accompanied by:

(a) One complete copy for each party to be served, with said copy to include a summons dated and signed by the appropriate Clerk of Court and a complete complaint including civil action number;

(b) A statement identifying the Code section under which the filing is made;

(c) The payment of the fees as required by the Code or listed on the fee schedule published by the Secretary of State; and

(d) Written certification that the plaintiff or his attorney:

1. has forwarded by registered mail such process, service or demand to the last registered office or agent listed on the records of the Secretary of State;

2. that service cannot be effected at such office; and

3. it appears the limited partnership has failed either to maintain a registered office or appoint a registered agent in this State.

(3) The Secretary of State shall issue to the person making the filing:

(a) An acknowledgement of receipt; or

(b) A certificate of filing of documents filed with the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-18-.03
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Processing" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-18-.04. Returned Documents.

(1) **Documents must be complete.** The Secretary of State may return any documents that are not complete and appropriate for filing. The returned documents shall be accompanied by a Notice with an explanation of the rejection or any deficiencies and an acknowledgement of the receipt by the Secretary of State of the filing fee.

(2) **Correcting deficient filings.** The documents may be corrected and returned to the Secretary of State for processing. The filer must attach to the corrected and returned documents a copy of the Notice issued by the Secretary of State. If the documents are returned to the Secretary of State by the applicant within sixty (60) days of the date of the Notice, the filing date will be the date the corrected and completed filing is received by the Secretary of State.

(3) **Abandoned filings.** If the filing is not returned to and received by the Secretary of State within sixty (60) days of date of the Notice, it will be deemed abandoned and all records pertaining to the filing will be destroyed. A new filing, including the payment of filing fees to the Secretary of State, will be required to complete the filing.

Cite as Ga. Comp. R. & Regs. R. 590-7-18-.04
Authority: O.C.G.A. §§ 14-5-23, 14-9-1102, 14-9-1103.
History. Original Rule entitled "Returned Documents" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-18-.05. Fees.

All fees, whenever possible, shall be paid by check. Each check shall have the name of the case written on it. Fees are non-refundable once the service documents are filed with the Secretary of State except as provided by statute.

Cite as Ga. Comp. R. & Regs. R. 590-7-18-.05
Authority: O.C.G.A. §§ 14-9-104, 14-9-1102 and 14-9-1103.
History. Original Rule entitled "Fees" was filed on June 10, 1988; effective July 1, 1988, as specified by the Agency.

Subject 590-7-19. LIMITED LIABILITY COMPANIES - RULES OF GENERAL APPLICABILITY.

Rule 590-7-19-.01. Definitions.

(1) **Active Limited Liability Company.** As used herein, the term "active limited liability company" shall mean a limited liability company or foreign limited liability company that is on file with the Secretary of State and is in compliance with the filing requirements of the Code.

(2) **Active Name Reservation.** As used herein, the term "active name reservation" shall mean a name reservation issued by the Secretary of State that has not been redeemed and has not expired.

(3) **Annual Registration.** As used herein, the term "annual registration" shall mean the filing required of each limited liability company as set forth in the Code.

(4) **Applicant.** As used herein the term "applicant" shall mean any person making application to the Commissioner for any service provided or authorized by the Code.

(5) **Assistant Corporation Commissioner.** As used herein, all references to the "Assistant Corporation Commissioner" shall mean the Assistant Corporation Commissioner appointed by the Secretary of State as the Director of the Corporations Division to oversee the administration of the Code as provided in O.C.G.A. Section 14-5-20.

(6) **Articles of Organization.** As used herein, the term "articles of organization" or "articles" shall mean the articles filed to form a limited liability company and such articles as amended or restated.

(7) **Automated Database.** As used herein, all references to the "automated database" shall mean the database maintained on the electronic data processing equipment.

(8) **Certificate.** As used herein, all references to "certificate" shall mean a form containing signatures of the Secretary of State and/or persons authorized by the Secretary of State, a date of filing, and the printed or embossed seal of the State of Georgia. "Certificate" may also include the placing of a stamp on a document containing a time and date of filing and an acknowledgement of such filing. "Certificate" shall not mean share certificates or certificates which represent the ownership interest in a corporation, limited liability company, or other entity.

(9) **Certificate of Organization.** As used herein,"Certificate of Organization" means the certificate issued by the Secretary of State certifying that articles of organization have been filed with the Secretary of State pursuant to the Code.

(10) **Code.** As used herein, all citations to "the Code" or "Code" refer to the Georgia Limited Liability Company Act and other statutes set forth in Title 14 of the Official Code of Georgia Annotated, as amended.

(11) **Commissioner.** As used herein, all references to "Commissioner" or "Corporation Commissioner" shall mean the Secretary of State of the State of Georgia.

(12) **Corporate Service Organization.** As used herein, a "corporate service organization" shall mean a person or entity, a substantial part of whose business is:

(a) Providing information concerning business entities to the public;

(b) Providing ministerial services to business entities to assist them in meeting the filing requirements of state and federal laws and regulations pertaining to such entities; or

(c) Maintaining a commercial database available to the general public.

(13) **Depository.** As used herein, all references to "depository" shall mean a person, individual, organization, corporation or other entity designated by the Commissioner to accept filings, funds or other documents on his or her behalf and to perform certain ministerial services for the Corporations Division.

(14) **Division.** As used herein, all references to "Division" shall mean the Corporations Division of the Office of the Secretary of State which is the division that is delegated the authority by the Secretary of State to administer the provisions of the Code.

(15) **Entity**. As used herein, the term "entity" includes corporation and foreign corporation; nonprofit corporation and foreign nonprofit corporation; professional corporation and foreign professional corporation; limited partnership and foreign limited partnership; foreign limited liability partnership; and limited liability company and foreign limited liability company.

(16) **Existing Entity**. As used herein, the term "existing entity" shall mean a domestic or foreign profit corporation, nonprofit corporation, professional corporation, limited partnership, limited liability partnership, limited liability limited partnership, or limited liability company that is on file with the Secretary of State, is in compliance with the filing requirements of the Code, and has not been dissolved, cancelled, terminated, voided, administratively dissolved, merged out of existence, withdrawn, revoked, or placed in an inactive status.

(17) **Expedited Review or Expedited Processing.** As used herein, the term "expedited review" or "expedited processing" shall mean a special processing of filings prior to the processing of routine filings. These filings, if approved for expedited treatment, will be processed within the time frame of the requested level of expedited service.

(18) **Fee Schedule.** As used herein, the term "fee schedule" shall mean the schedule published and maintained by the Commissioner clearly setting forth the fees and charges for documents and services provided by the Division. The fees may only be changed by an amendment to the Code. Service charges may only be changed by the posting by the Commissioner of such changes in the public access area of the Division offices for a minimum of thirty (30) days prior to such change being effective.

(19) **Foreign Limited Liability Company.** As used herein, the term "foreign limited liability company" means a limited liability company organized under the laws of a jurisdiction other than the State of Georgia.

(20) **Home State or Home Jurisdiction.** As used herein, all references to a "home state" or "home jurisdiction" shall mean the state or country where a limited liability company has filed its articles of organization and has been issued a document or acknowledgement evidencing the formation of the limited liability company.

(21) **Individual.** As used herein the term "individual" means a natural person.

(22) **Legal Name.** As used herein the term "legal name" shall mean:

(a) For an individual, the legal name consists of the individual's first name and last name (or surname), without use of initials or nicknames, as it appears on the individual's birth certificate unless the individual's name has changed based on certain events, such as a marriage or a valid court order for a name change. Middle name(s), middle name initial(s), and/or suffixes may, but are not required to, be included in an individual's legal name.

(b) For foreign-born individuals, the legal name consists of the individual's name shown on his or her immigration document.

(c) For entities, the legal name consists of the entity's official name as it appears on the entity's formation document filed with the entity's home state, or any valid amendment thereof.

(23) **Limited Liability Company.** As used herein, the term "limited liability company" or "domestic limited liability company" shall mean a limited liability company formed under the provisions of Title 14 of the Official Code of Georgia Annotated.

(24) **Manager.** As used herein, the term "manager" shall mean a person in whom management is vested in accordance to the provisions of the Code.

(25) **Member.** As used herein, the term "member" shall mean a person who has been admitted to a limited liability company and who has not ceased to be a member as provided in the Code.

(26) **Name.** All references to the "name" of an individual in the Code and on the forms, applications, and other documents of the Division shall mean an individual's legal name as defined herein.

(27) **Name Certificate.** As used herein, the term "name certificate" shall mean the document or confirmation number issued by the Commissioner establishing the availability of a name for use by a limited liability company.

(28) **Person.** As used herein, all references to "person" includes an individual and a business, legal, or commercial entity as defined by the Code.

(29) **Pickup.** As used herein, the term "pickup" shall mean a request by the applicant to pick up processed documents from the Office of the Secretary of State rather than having documents sent by United States mail, electronic mail, or other commercial delivery service.

(30) **Proposed Entity Name**. As used herein, the term "proposed entity name" shall mean:

(a) The name of an entity contained in articles of incorporation, articles of organization, certificate of limited partnership, application for certificate of authority, or an application for name reservation with the Secretary of State; or

(b) The name of an entity contained in articles of amendment, restated articles of incorporation, restated articles of organization, certificate of amendment to the certificate of limited partnership, articles or certificate of merger, articles or certificate of share exchange, certificate of conversion, application for reinstatement, application for reinstatement or reactivation from inactive status, or application for amended certificate of authority submitted to the Secretary of State for filing, if that name is different than the existing name of the entity or foreign entity on file and of record with the Secretary of State.

(31) **Rule.** As used herein, all references to "Rule" or "the Rules" shall mean the rules as they appear in the "Official Compilation, Rules and Regulations of the State of Georgia" as compiled and printed by the Secretary of State pursuant to the Georgia Administrative Procedure Act, O.C.G.A. §§ 50-13-1*et seq.*

(32) **Secretary of State.** As used herein, all references to the "Secretary of State" or to the "Secretary" shall mean the Secretary of State of the State of Georgia. The terms "Commissioner" and "Secretary of State" shall both refer to the Secretary of State of the State of Georgia.

(33) **Sign or Signature.** As used herein all references to "sign" or "signature" includes any manual, facsimile, conformed, or electronic signature.

(34) **Year.** As used herein, the term "year" shall mean a calendar year. A calendar year is the one-year period that begins on January 1 and ends on December 31.

Cite as Ga. Comp. R. & Regs. R. 590-7-19-.01
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, 14-11-1106.
History. Original Rule entitled "Definitions" adopted. F. May 11, 2017; eff. May 31, 2017.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.
Amended: F. July 23, 2019; eff. August 12, 2019.

Rule 590-7-19-.02. Delegation to Assistant Corporation Commissioner.

The Assistant Corporation Commissioner is empowered to sign all documents, make all decisions and perform all acts under the Code as is the Secretary of State. This power may be exercised by the Assistant Corporation Commissioner concurrently with the Secretary of State and all acts of the Assistant Corporation Commissioner are of the same force and effect as such acts would be if performed by the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-19-.02
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Delegation to Assistant Corporation Commissioner" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-19-.03. Administrative Declaratory Rulings; Informal Interpretations.

(1) **Declaratory Rulings.**

(a) **Availability.** Any person whose legal rights will be interfered with or impaired by the application by the Commissioner of any statutory provision or any rule or order of the Commissioner may petition the Commissioner and request a declaratory ruling therein. The Commissioner will not render advisory opinions, resolve questions which have become moot or are abstract, hypothetical, or otherwise act hereunder except with respect to such actual controversies or other cases upon which a superior court would be required to act under the Georgia declaratory judgment statutes as construed by the appellate courts of Georgia.

(b) **Form of Petition.** Each such petition shall be filed with the Commissioner in writing and shall state:

1. The name and mailing address of the petitioner;

2. The full text of the statute, rule, or order upon which a ruling is requested;

3. A paragraphed statement of all pertinent and existing facts necessary to a determination of the applicability of the quoted statute or rule;

4. The petitioner's contention, if any, as to the aforesaid applicability with citation of legal authorities, if any, which authorize, support, or require a decision in accordance therewith; and

5. A statement setting forth in detail the petitioner's interest in the matter and why and how the petitioner is uncertain or insecure with respect to his rights. The petition shall be verified under oath by, or in proper behalf of, the petitioner.

(c) **Proceedings on Petition.** If the Commissioner shall determine that a decision can be rendered on the face of the petition without further proceedings, he or she shall render a summary decision thereon. Otherwise, all parties known by the Commissioner to have a legal interest in the matter shall be notified and given an opportunity to be heard in an informal hearing.

(2) **Informal Interpretations.** Any request presented in any manner other than in accordance with the provisions of paragraph (1) above shall not be deemed to be filed as a petition for declaratory ruling and shall be dealt with in any manner that the Commissioner may deem appropriate.

Cite as Ga. Comp. R. & Regs. R. 590-7-19-.03
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Administrative Declaratory Rulings; Informal Interpretations" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-19-.04. Petition for Adoption of Rules.

(1) **Form of Petition.** Each petition for adoption of rules made pursuant to the Georgia Administrative Procedure Act shall be filed with the Commissioner in writing and shall state:

(a) The name and mailing address of the petitioner;

(b) The full text of the rule requested to be amended or repealed, or the full text of the rule desired to be promulgated;

(c) A paragraphed statement of the reasons such rule should be amended, repealed or promulgated, including a statement of all pertinent existing facts as to petitioner's interest in the matter; and

(d) Citations of legal authorities, if any, which authorize, support, or require the action requested by petitioner. The petition should be verified under oath by, or on behalf of, the petitioner.

(2) **Proceedings on Petition.** Upon receipt of the petition, the Commissioner shall decide upon the action to be taken. Within sixty (60) days after receipt of the petition, the Commissioner shall inform the petitioner by mail of the decision reached and shall either decline to take the action requested, stating his reasons for so declining, or shall initiate rule-making or rule-changing proceedings in accordance with the Georgia Administrative Procedure Act.

Cite as Ga. Comp. R. & Regs. R. 590-7-19-.04
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105 and 14-11-1106.
History. Original Rule entitled "Petition for Adoption of Rules" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-19-.05. Records.

(1) All applications, articles of organization, amendments, annual registrations, records, and other documents filed with the Commissioner pursuant to the various provisions of the Code shall be printed or typed on white paper with blue or black ink only, and said paper shall not exceed letter size measurements of 8 1/2" by 11".

(2) All applications, articles of organization, amendments, annual registrations, records, and other documents filed with the Commissioner pursuant to the various provisions of the Code may be maintained in original form or by means of microfilm, microfiche, microphotographic reproduction, photographic reproduction, word processing, computerization, optical disk, electronic disk or diskette storage or other acceptable reproductive methods.

(3) The Commissioner, after verification of the documents to the automated database maintained by the Commissioner, may rely on such automated database for the purpose of providing information, certifications, and the issuance of name certificates.

(4) The Commissioner will maintain active records of annual registrations for a period of five (5) years and will provide information from, and copies of, such annual registrations during such period. The Commissioner may, but is not required to, provide information from or copies of annual registrations on file for more than five (5) years.

(5) The Commissioner shall maintain the integrity of the automated database. In the event of a malfunction on the electronic equipment, or errors in the software programs, the Commissioner shall not be liable for the release of incorrect data or the issuance of a name certificate that is not distinguishable from another name on file with the Commissioner pursuant to the Code.

(6) Any photographic, microphotographic, optical disk, or computer reproduction of any original writing or record filed with or maintained by the Commissioner or by a records depository approved by the Commissioner shall be deemed to have been made in the regular course of business. Such reproduction shall be subject to certification pursuant to the Code.

Cite as Ga. Comp. R. & Regs. R. 590-7-19-.05
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Records" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-19-.06. Fees, Penalties, and Charges.

(1) Every registration, annual registration, or other filing required or permitted pursuant to the Code or any Rule or Regulation promulgated thereunder shall be accompanied by the required fee, penalty fee or funds as required by the Code. All filing fees shall be immediately docketed into the automated database by the staff of the Secretary of State. Docketing of the filing fees shall be for accounting and document control only and shall not constitute acceptance of the filing nor shall it imply that the applicant has met the filing requirements of the Code.

(2) No registration, annual registration, or other filing required pursuant to the Code or any Rule shall be considered officially received by the Secretary of State unless said documents are accompanied by the required fee or funds. Said fee or funds shall be received by the Commissioner or by a person designated by him.

(3) All fees and penalties are nonrefundable unless specifically authorized by the Commissioner or Assistant Corporation Commissioner and a written request for refund is received from the applicant.

(4) All fees and penalties are nontransferable unless specifically authorized by the Commissioner or Assistant Corporation Commissioner.

(5) All filing fees and penalties assessed pursuant to the Code or the Rules and Regulations promulgated thereunder shall not be deemed to be paid unless payment is made in United States currency, certified funds, or until any check given for such fees or penalties has been paid by the financial institution upon which such check is drawn.

(6) Fees paid by check or money order shall have the name of the proposed entity or, in the case of a filed entity, the filed entity's name or control number written on it.

(7) The Secretary of State may determine the imposition of any penalty provided for by the Code or the Rules and Regulations promulgated thereunder.

(8) The Secretary of State shall publish a comprehensive list of filing fees, minimum service charges, service charges, penalties and other fees collected by the staff. Service charges may only be changed by the posting by the Secretary of State of such changes in the public access area of the Division offices for a minimum of thirty (30) days prior to such changes being effective.

(9) All invoices for certificates, copies, or other charges are due immediately upon receipt. Failure to pay the invoice may result in the invoice being referred for collection and in any future payment being accepted only if submitted by cashier's check or United States Postal Service money order.

(10) The Secretary of State may impose service charges in order for persons to have the ability to make electronic filings into, the automated database. Such charges shall be posted on the fee schedule prepared and maintained by the Secretary of State.

(11) The Secretary of State may impose service charges for the filing of documents in paper format. Such charges shall be posted on the fee schedule prepared and maintained by the Secretary of State.

(12) No filing will be accepted by the Secretary of State without the payment of any past due fees, charges, or penalties assessed pursuant to the Code or the rules promulgated thereunder.

Cite as Ga. Comp. R. & Regs. R. 590-7-19-.06
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, 14-11-1106.
History. Original Rule entitled "Fees, Penalties, and Charges" adopted. F. May 11, 2017; eff. May 31, 2017.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.
Amended: F. July 23, 2019; eff. August 12, 2019.

Rule 590-7-19-.07. Dishonored Payments.

(1) Checks or other forms of payment returned to the Commissioner because of nonpayment and/or charge backs of credit card or debit card payments (hereinafter referred to as the "dishonored" or "dishonored payment") shall be processed according to the following procedures:

(a) **Pending Filings**.

1. The filing and/or the entity for which the filing was made shall be placed in a "pending," "hold," or similar status and the nonpayment of fees noted upon the records of the Secretary of State;

2. A notice of nonpayment demanding immediate payment shall be issued to the entity or person who submitted the payment;

3. If payment is not received within sixty (60) calendar days from the date of notice of nonpayment, the filing will be deemed abandoned as provided in Rule 590-7-21-.04(3); and

4. If the filing is deemed abandoned, all records pertaining to the filing will be destroyed and a new filing, including the payment of filing fees, shall be required. Any filing fees submitted with the new filing may be required to be paid by cashier's check or United States Postal Service money order.

(b) **Completed Filings**.

1. The entity for which the filing was made shall be deemed to be not in good standing by the Secretary of State. The records of the entity maintained by the Secretary of State shall be marked to show such status and to show the nonpayment of fees;

2. A notice of nonpayment demanding immediate payment and stating that possible grounds exist for administrative dissolution or revocation shall be issued to the entity or person who submitted payment;

3. If payment is not received within sixty (60) calendar days from the date of the notice of nonpayment, written notice shall be issued stating the Commissioner's intent to administratively dissolve or revoke the entity and the grounds therefore. The notice of intent to administratively dissolve or revoke shall be mailed to the entity at the last known address of its principal office or registered agent. A copy of the notice of nonpayment may be attached to the notice of intent to administratively dissolve or revoke; and

4. If payment is not received sixty (60) calendar days from the date of the notice of intent to administratively dissolve or revoke, the entity shall be administratively dissolved or revoked in accordance with Title 14 of the Official Code of Georgia Annotated.

(c) **Annual Registration**.

1. The entity for which the annual registration was submitted shall be deemed to be not in good standing by the Secretary of State. The records of the entity maintained by the Secretary of State shall be marked to show such status and to show the nonpayment of fees;

2. A notice of nonpayment demanding immediate payment and stating that possible grounds exist for administrative dissolution or revocation shall be issued to the entity or person who submitted payment; and

3. If payment is not received within sixty (60) calendar days from the date of the notice of nonpayment, written notice shall be issued stating the Commissioner's intent to administratively dissolve or revoke the entity and the grounds therefore. The notice of intent to administratively dissolve or revoke shall be mailed to the entity at the last known address of its principal office or registered agent. A copy of the notice of nonpayment may be attached to the notice of intent to administratively dissolve or revoke; and

4. If payment is not received sixty (60) calendar days from the date of the notice of intent to dissolve or revoke, the entity shall be administratively dissolved or revoked in accordance with Title 14 of the Official Code of Georgia Annotated.

(d) **Services**.

1. The records of the Secretary of State for the entity or person which requested the services shall be marked to reflect nonpayment for the services performed;

2. A notice of nonpayment demanding immediate payment shall be issued to the entity or person who submitted payment;

3. If payment is not received within thirty (30) calendar days from the date of notice of nonpayment, a second notice will be issued to the entity or person who requested the service. The notice shall state that if payment is not made immediately, all payments for services, fees and filings submitted by the entity or person shall be required to be made by cashier's check or United States Postal Service money order.

(2) Subsequent requests for services or subsequently submitted filings from any entity or person that has submitted payment which has been dishonored may be required to be accompanied by cashier's check or United States Postal Service money order.

(3) Payments tendered for returned checks which are also dishonored shall be redeemed by cashier's check or United States Postal Service money order only.

(4) The Commissioner may require the payment of any service charge in addition to the amount owed as a result of any dishonored payment. Such service charge shall be published in the fee schedule maintained by the Commissioner.

(5) The records of the Secretary of State may be marked to show nonpayment status for any entity or person that has submitted payment which has been dishonored. The issuance of a Certificate of Existence or a statement of good standing regarding the entity may be denied by the Commissioner until full payment has been made.

Cite as Ga. Comp. R. & Regs. R. 590-7-19-.07
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, 14-11-1106.
History. Original Rule entitled "Dishonored Payments" adopted. F. May 11, 2017; eff. May 31, 2017.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-19-.08. Refunds.

(1) Not with standing Rule 590-7-19-.01, and for purposes of this Rule only, an "applicant" shall mean the party who submits a written request for refund to the Commissioner and is the original payor, the proper legal entity of the original payor, or its legally authorized representative.

(2) An applicant shall be refunded all fees in an amount which has been determined to have been paid in error, less deduction of an amount as otherwise provided in this Rule. Payment of any refund amount shall be made interest free. Each request shall be made in writing and submitted in a manner as required by the Commissioner and shall contain such information as the Commissioner may deem as reasonably necessary, which may include applicant's name, date of request, applicant's contact information, reason for refund, original amount paid and signature. All requests for refund must be made by the applicant or an authorized representative. It is the sole responsibility of the applicant to provide all documentation supporting the request for refund.

(3) For request for refund to be valid, it must be complete with all supporting documents and submitted within six (6) months of the date of the original payment. No request for refund that is incomplete with missing information or supporting documentation or that is made beyond the expiration of six (6) months following the date of the original payment shall be processed.

(4) All completed refund requests shall be processed by the Commissioner, or his or her delegate, and shall be submitted for review and payment as soon as reasonably possible following receipt of the completed request. Notwithstanding the foregoing, the Commissioner may initiate the refund process in the event that a billing error is discovered in absence of an applicant's request for refund.

(5) Upon review of the request for refund and supporting documentation, the Commissioner may authorize payment of the requested amount, refund a lesser amount, or reject the request if the facts of the matter support such a conclusion.

(6) In the event there is an outstanding balance of unpaid fees owed by the applicant, the Commissioner is authorized to offset any refund amounts as payment for such unpaid fees and any costs.

(7) All refunds must be made payable in the name of the original applicant.

(8) Once a refund is paid to an applicant, the matter shall be considered final and the Commissioner shall not accept any new request for refund relating to the same matter.

Cite as Ga. Comp. R. & Regs. R. 590-7-19-.08
Authority: O.C.G.A. Secs. 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Refunds" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-19-.09. Expedited Processing.

(1) Counter pickups of documents and certificates shall not be allowed unless expedited processing is requested and approved.

(2) Expedited processing of filings and the issuance of certificates will be provided if the applicant provides the Commissioner a request for expedited processing and the request is accompanied by the payment of the expedited processing charges listed in the fee schedule published and maintained by the Commissioner, in addition to the applicable filing or service fee.

(3) For filings and certificate requests submitted to the Division by mail, the expedited processing fee shall be paid by United States Postal Service money order, certified check, or cashier's check. For filings and certificate requests hand-delivered to the Division, the expedited processing fee shall be paid by United States Postal Service money order, certified check, cashier's check, or by a credit card accepted by the Division. For filings and certificate requests electronically transmitted to the Division, the expedited processing fee shall be paid by a credit card accepted by the Division.

(4) The Commissioner will provide expedited processing if he or she determines the request to be valid and in proper form. An expedited request of a filing will be considered to have been completed when the filing has been accepted or rejected for filing and supporting documentation has been forwarded to the filer. An expedited request for the issuance of certificates will be considered to have been completed when the certificate request is processed or rejected and supporting documentation has been forwarded to the applicant.

Cite as Ga. Comp. R. & Regs. R. 590-7-19-.09
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105 and 14-11-1106.
History. Original Rule entitled "Expedited Processing" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-19-.10. Compliance with Filing Requirements.

(1) Any limited liability company or foreign limited liability company that files for termination, withdrawal, or merger out of existence between January 1 and April 1 of any year must file an annual registration for that calendar year and pay the required fees; provided, however, that an annual registration is not required to be filed if the limited liability company is applying for winding up, termination, withdrawal, or merger out of existence in the same calendar year that it was formed or authorized to transact business in Georgia.

(2) Any document or transaction that is filed by a limited liability company or foreign limited liability company after April 1 of a calendar year must be accompanied by any currently or previously due annual registration.

(3) Articles of organization that are submitted for filing by an entity converting to or electing to become a limited liability company shall not be accepted by the Secretary of State unless said entity has paid all fees and penalties required by the Code and the Rules, including annual registration fees.

Cite as Ga. Comp. R. & Regs. R. 590-7-19-.10
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, 14-11-1106.
History. Original Rule entitled "Compliance with Filing Requirements" adopted. F. May 11, 2017; eff. May 31, 2017.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-19-.11. Registered Office and Registered Agent.

(1) **Registered Office.** The registered office must be a street address in Georgia where service of process may be served on the registered agent. The registered office address may not be a post office box, post office drawer, mail drop, or rural route, unless the address is also accompanied by a physical address of the exact location of the registered office where the registered agent can be personally served with process. The registered office may, but need not be, the limited liability company's principal office or its place of business.

(2) **Registered Agent.** The legal name of the registered agent at the registered office of the limited liability company shall be provided to the Secretary of State. An entity may not serve as its own registered agent.

(3) **Unauthorized Appointment of Registered Agent.** A person listed on the records of the Secretary of State as the registered agent for an entity without that person's consent or authorization may file a Notice of Unauthorized Appointment of Registered Agent with the Secretary of State on a form provided by the Division. There is no fee for filing a Notice of Unauthorized Appointment of Registered Agent. If the Notice of Unauthorized Appointment of Registered Agent is accepted for filing by the Secretary of State, then the filed notice will be added to records of the entity maintained by the Secretary of State, the entity's registered office and registered agent information maintained on the Division's

automated database will be updated accordingly, and the Division may send notification of the filing to the entity by mail or electronic methods, such as email.

Cite as Ga. Comp. R. & Regs. R. 590-7-19-.11
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, 14-11-1106.
History. Original Rule entitled "Registered Office and Registered Agent" adopted. F. Nov. 26, 2018; eff. Dec. 16, 2018.

Subject 590-7-20. LIMITED LIABILITY COMPANIES - NAME.

Rule 590-7-20-.01. Name.

The name of a domestic or foreign limited liability company:

(a) Must contain the words "limited liability company","limited company" or the abbreviations "LLC", "L.L.C.","LC" or "L.C.";

(b) May abbreviate the word "limited" as "Ltd." or "Ltd" and the word "company" as "Co." or "Co";

(c) Must be distinguishable on the records of the Secretary of State from the name of any existing entity or active name reservation on file with the Secretary of State pursuant to Title 14 of the Code;

(d) Must consist of only English alphabet letters, Arabic numerals, Roman numerals, and symbols and special characters capable of being reproduced on a standard English (U.S.) keyboard;

(e) Must not contain any words which indicate that the entity is organized other than as a limited liability company. Words which shall not be used in the name of a limited liability company include "corporation," "incorporated," "professional corporation," "limited partnership," "limited liability partnership," "limited liability limited partnership," and any abbreviation of such words;

(f) Must not contain the acronym "DBA" or any variations of such acronym, and

(g) Must not exceed 80 characters, including spaces and punctuation.

Cite as Ga. Comp. R. & Regs. R. 590-7-20-.01
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Name" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-20-.02. Method of Reserving a Name.

(1) A name for a domestic or foreign limited liability company may be reserved with the Secretary of State by any person pursuant to the Code.

(2) A name may be reserved in the following manner:

(a) By mailing an application for name reservation to the Secretary of State, Corporations Division, 2 Martin Luther King Jr. Drive, Suite 313 West Tower, Atlanta, Georgia 30334;

(b) By delivering an application for name reservation to the Secretary of State at the address referred to in paragraph (2)(a) above; or

(c) By electronic transmission in the manner authorized by the Division on its website.

(3) An application for reservation of a name shall be accompanied by the fee specified in the Code.

Cite as Ga. Comp. R. & Regs. R. 590-7-20-.02
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Method of Reserving a Name" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-20-.03. Issuance of Name Reservation Certificate.

(1) Following application for a name reservation by any means available, if the name appears to be available, it will be reserved and a name certificate will be promptly sent by mail or by electronic methods, such as email, to the applicant. The applicant may not pick up a name certificate from the Division unless expedited processing is requested and authorized.

(2) A name reservation shall be valid for a nonrenewable period of thirty (30) days from the date of issuance of the name certificate.

(3) Within the thirty (30) day name reservation period, an applicant filing articles of organization, articles of amendment with a name change, or other similar document, may provide the Secretary of State with a name certificate or certification of the availability of a limited liability company name. The Secretary of State may accept a certification, verification, or confirmation number in lieu of a name certificate, provided the Secretary of State's records reveal that the name was reserved by the applicant.

(4) A name reservation may be transferred only by a signed written notice that complies with the requirements of the Code.

Cite as Ga. Comp. R. & Regs. R. 590-7-20-.03
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, 14-11-1106.

History. Original Rule entitled "Issuance of Name Reservation Certificate" adopted. F. May 11, 2017; eff. May 31, 2017.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-20-.04. Distinguishable Names.

The Secretary of State will deny a request for a name certificate or proposed entity name if such requested name is identical to or not distinguishable from the name of any existing entity or active name reservation on file and of record with the Secretary of State pursuant to Title 14 of the Code. Without limiting the discretion of the Secretary of State to determine that a name is not distinguishable, a requested name shall be deemed "not distinguishable" from an existing entity name or active name reservation if the difference between the names results from any one or more of the following:

(a) An article (e.g. "a," "an," "the");

(b) Plural or possessive forms of the same word;

(c) Phonetic spelling of the same name or word;

(d) A conjunction or disjunction (e.g. "and," "&," "or");

(e) An abbreviation in place of a complete spelling of a word or name;

(f) A suffix added to a word or any other deviation from or derivative of the same word;

(g) The addition or omission of punctuation, symbols, special characters, or spaces;

(h) A symbol or special character in place of a word or name (e.g. "and" and "&"; "at" and "@");

(i) A numerical number in Arabic or Roman numeral(s) and the same number spelled out with letters of the alphabet; and

(j) A change in a word or name indicating corporate or business entity status.

Cite as Ga. Comp. R. & Regs. R. 590-7-20-.04
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, 14-11-1106.
History. Original Rule entitled "Distinguishable Names" adopted. F. May 11, 2017; eff. May 31, 2017.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-20-.05. Contested Cases.

(1) The Secretary of State is not authorized to intervene in a private name infringement action. The Secretary of State may provide certified copies of any public document filed pursuant to the Code and the rules promulgated thereunder.

(2) The Secretary of State may, prior to the issuance of a certificate of organization or a certificate of authority, revoke a name certificate if the name certificate is issued for a name which is not distinguishable from the name of another entity or name reservation filed with the Secretary of State or the name contains any word whose use is restricted by any provision of the Code and rules promulgated thereunder.

(3) In the event that a certificate of organization or a certificate of authority has been issued by the Secretary of State and the name is not distinguishable from the name of another entity filed with the Secretary of State under Title 14 of the Official Code of Georgia Annotated, or the name contains any word whose use is restricted by any provision of the Code or rules promulgated thereunder, the following actions may be taken:

   (a) The Secretary of State may issue an order directing the limited liability company to file articles of correction or articles of amendment changing its name to a name that is available for use in this state or directing a foreign limited liability company to file an application for amended certificate of authority changing its name to a name that is available for use in this state. Since this is a ministerial correction of documents, the limited liability company shall not be required to pay a fee to the Commissioner for such filing.

   (b) In the event the domestic or foreign limited liability company fails to file the appropriate documents to change its name, the Commissioner may mark the records maintained by the Secretary of State to show the limited liability company's noncompliance and may certify the record to the Attorney General and request that action be taken against the limited liability company according to the provisions of the Code.

Cite as Ga. Comp. R. & Regs. R. 590-7-20-.05
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Contested Cases" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-20-.06. Restricted Names.

(1) The Secretary of State may refuse to grant a request for a name certificate or a proposed entity name if such requested name contains the name of any entity on file with the Secretary of State pursuant to Title 14 of the Code. A request for a name certificate or a proposed entity name may be granted if the applicant obtains express written permission from the entity regarding the use of the name, and the names are otherwise distinguishable or the other entity files with the Secretary of State an appropriate

document to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying limited liability company.

(2) The Secretary of State may refuse to grant a request for a name certificate or a proposed entity name if such requested name contains any word whose use is restricted by any provision of the Official Code of Georgia Annotated.

(3) The Secretary of State may restrict from use, require consent, or require further information before certain terms shall be used in a limited liability company or foreign limited liability company name. A list of said terms shall be posted in the same public access area of the Division offices as the fee and penalty listing maintained pursuant to Rule 590-7-19-.06. Said list shall be available upon request. The restricted terms shall be deemed to include the name of any well-known trademark, tradename, governmental agency, educational organization or institution, charitable organization, or professional organization.

Cite as Ga. Comp. R. & Regs. R. 590-7-20-.06
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, 14-11-1106.
History. Original Rule entitled "Restricted Names" adopted. F. May 11, 2017; eff. May 31, 2017.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-20-.07. Foreign/Domestic Limited Liability Companies Distinguished.

The name of a place attached to one of two otherwise indistinguishable or identical names may sufficiently distinguish between a foreign limited liability company and a domestic limited liability company, or between two foreign limited liability companies.

Cite as Ga. Comp. R. & Regs. R. 590-7-20-.07
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Foreign/Domestic Limited Liability Companies Distinguished" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-20-.08. Domestic Limited Liability Companies Distinguished.

The name of a place or location attached to one or more otherwise indistinguishable or identical names may sufficiently distinguish between two domestic limited liability companies.

Cite as Ga. Comp. R. & Regs. R. 590-7-20-.08
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Domestic Limited Liability Companies Distinguished" adopted. F. May 11, 2017; eff. May 31, 2017.

Subject 590-7-21. LIMITED LIABILITY COMPANIES - FILING OF DOCUMENTS.

Rule 590-7-21-.01. Filing of Documents.

(1) The filing of documents by a domestic or foreign limited liability company shall be made with the Secretary of State in the following manner:

(a) By mailing the required documents and fees to the Secretary of State at 2 Martin Luther King, Jr. Drive, Suite 313, West Tower, Atlanta, Georgia 30334;

(b) By delivering the required documents and fees to the Secretary of State at the address referred to in subparagraph (a) above; or

(c) By electronic transmission in the manner authorized by the Division on its website.

(2) Documents filed with the Secretary of State shall be processed in time receipt order. Expedited processing of filings may be requested.

(3) The documents presented for filing shall be written in English, shall be of sufficient quality for legible reproduction by microfilm and shall be typed or printed on white, letter-size (8 1/2" x 11") paper in black or blue ink only.

Cite as Ga. Comp. R. & Regs. R. 590-7-21-.01
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Filing of Documents" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-21-.02. Transmittal Information Form.

All articles of organization filed with the Secretary of State shall include a transmittal information form as prescribed by the Secretary of State in compliance with the Code. Information contained on the form shall be entered into the automated database maintained by the Secretary of State. The Secretary of State or his or her staff shall not be responsible for any errors or omissions on said form. The form shall be attached to and made a part of the original articles of organization on file with the Secretary of State, including articles that are filed as part of a certificate of conversion.

Cite as Ga. Comp. R. & Regs. R. 590-7-21-.02
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Transmittal Information Form" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-21-.03. Additional Information.

(1) **Correct mailing address.** The applicant shall provide the Secretary of State with a correct mailing address of the limited liability company's principal place of business, which may be a post office box or street address.

(2) **Registered office address.** The applicant shall also provide the Secretary of State with the street address of the registered office where service of process may be effectuated. This address may not be a post office box, post office drawer, mail drop, or rural route.

(3) **County of registered office.** The applicant shall provide to the Secretary of State the name of the county of the registered office.

(4) **Registered agent.** The legal name of the registered agent at the registered office of the limited liability company shall be provided to the Secretary of State. Consent of the registered agent to his or her appointment as registered agent is not required.

Cite as Ga. Comp. R. & Regs. R. 590-7-21-.03
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, 14-11-1106
History. Original Rule entitled "Additional Information" adopted. F. May 11, 2017; eff. May 31, 2017.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-21-.04. Returned Documents.

(1) **Documents must be complete.** The Secretary of State may return any documents that are not complete and appropriate for filing as prescribed by the Code and the rules promulgated thereunder. The returned documents will be accompanied by a Deficient Document Notice explaining the deficiency and an acknowledgement of receipt by the Secretary of State of the filing fee.

(2) **Filing date.** The documents may be corrected by the applicant and returned to the Secretary of State for processing. The applicant must attach to the corrected and returned documents the Deficient Document Notice issued by the Secretary of State. If the documents are returned to the Secretary of State by the applicant within thirty (30) days of the date of the Deficient Document Notice, the filing date will be the date the filing was initially received by the Secretary of State.

(3) **Abandoned filings.** If the filing is not returned to and received by the Secretary of State within sixty days (60) of the date of the Deficient Document Notice, the filing will be deemed abandoned. After a filing is deemed abandoned, a new filing, including the payment of filing fees and any penalties, will be required.

Cite as Ga. Comp. R. & Regs. R. 590-7-21-.04
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, 14-11-1106.
History. Original Rule entitled "Returned Documents" adopted. F. May 11, 2017; eff. May 31, 2017.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-21-.05. Amendments and Other Subsequent Filings.

(1) The Secretary of State shall endorse all amendments, mergers, and other subsequent filings with a stamp certificate acknowledging the filing and stating the time and date of such filings.

(2) All amendments and subsequent filings shall include the control number of the limited liability company, the date of its original formation or registration, and any fees required by law and the fee schedule maintained by the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-21-.05
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Amendments and Other Subsequent Filings" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-21-.06. Operating Agreement.

The Secretary of State shall not accept for filing any operating agreement of any limited liability company, whether domestic or foreign.

Cite as Ga. Comp. R. & Regs. R. 590-7-21-.06
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Operating Agreement" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-21-.07. Foreign Limited Liability Companies.

(1) **Initial Qualification**.

(a) A foreign limited liability company transacting business in this state shall procure a certificate of authority to do so from the Secretary of State. This certificate may be procured by the filing of the application of certificate of authority form, as prescribed by the Secretary of State, and the payment of fees and penalties as set forth in the Code and the fee schedule published by the Secretary of State. A foreign limited liability company does not have to file a certified certificate of existence from its home state in order to obtain a certificate of authority in Georgia.

(b) The application for certificate of authority form, as prescribed by the Secretary of State, shall contain the information required by O.C.G.A. Section 14-11-702, and any other information necessary to determine whether the applicant is subject to any fees or penalties imposed by the Code or the fee schedule published by the Secretary of State.

(2) **Time period for qualification; penalties.** A foreign limited liability company may not transact business in this state until it obtains a certificate of authority from the Secretary of State. If a foreign limited liability company does not obtain said certificate within 30 days of the commencement of business in Georgia, it shall be liable for a civil penalty of $500.00, in addition to all fees and/or penalties which would have been imposed if the foreign limited liability company had registered as required.

(3) **Subsequent Filings**.

(a) Each foreign limited liability company qualified to do business in this State shall maintain its qualification in its home state. All filings required by such state must be current in order to maintain good standing or active status in Georgia. Such limited liability company is required to file an annual registration in Georgia between January 1 and April 1 of each year, or such other date as the Secretary of State may specify by rules or regulations. A foreign limited liability company is not required to file an annual registration during the year it initially qualifies to transact business in the State of Georgia.

(b) Foreign limited liability company documents which reflect a change of name, change in the state of formation, or withdrawal from doing business in this state must be filed with the Secretary of State. All other limited liability company actions requiring filings will be deemed to be filed with the Secretary of State if properly filed in the state of formation. The foreign limited liability company, by filing its application for authority, under takes to promptly provide such filings to the Secretary of State upon request.

Cite as Ga. Comp. R. & Regs. R. 590-7-21-.07
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Foreign Limited Liability Companies" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-21-.08. Preclearance.

(1) Documents may be submitted to the Secretary of State for preclearance examination. The purpose of preclearance examination is to confirm that the proposed document conforms to the filing provisions of the Code prior to the actual submittal of the document for filing with the Secretary of State.

(2) Preclearance is available for any document required or permitted to be filed with the Secretary of State pursuant to Title 14 of the Official Code of Georgia Annotated, as amended.

(3) The fee for preclearance is set forth on the fee schedule maintained by the Secretary of State. The preclearance of a document may be expedited.

(4) Preclearance of documents does not reserve an entity name.

Cite as Ga. Comp. R. & Regs. R. 590-7-21-.08
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, 14-11-1106.
History. Original Rule entitled "Preclearance" adopted. F. Nov. 26, 2018; eff. Dec. 16, 2018.

Subject 590-7-22. LIMITED LIABILITY COMPANIES - ANNUAL REGISTRATIONS.

Rule 590-7-22-.01. Annual Registration Processing.

The Secretary of State or his or her agent shall receive the incoming annual registrations. It is the responsibility of the Corporations Division of the Office of Secretary of State to promptly process and record the filing of annual registrations pursuant to the Code. The Division may designate an agent or agents to assist in the administrative duties concerning annual registrations.

Cite as Ga. Comp. R. & Regs. R. 590-7-22-.01
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Annual Registration Processing" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-22-.02. New Registration Filings.

A newly formed domestic limited liability company or a newly qualified foreign limited liability company shall file an annual registration with the Secretary of State on a form provided by the Secretary and pay the fee stated in the Code between January 1 and April 1 of the year following the calendar year of the new registration filing.

Cite as Ga. Comp. R. & Regs. R. 590-7-22-.02
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "New Registration Filings" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-22-.03. Annual Registration Filings.

Each limited liability company registered to do business in this State shall, between January 1 and April 1 of each year, file an annual registration with the Secretary of State. This annual registration shall be on forms provided by the Secretary of State, shall contain the information required to be on an annual registration as stated in the Code, and shall include the payment of the fee and penalties set forth in the Code and fee schedule maintained by the Secretary of State. The Secretary of State may provide for the electronic filing of annual registrations.

Cite as Ga. Comp. R. & Regs. R. 590-7-22-.03
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Annual Registration Filings" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-22-.04. Depository.

The Secretary of State may designate a depository for receipt of annual registration filings and fees on an annual basis, in accordance with the criteria developed and administered by the Department of Administrative Services (DOAS). The depository may perform certain ministerial services on behalf of the Secretary of State in order to fulfill depository functions as set forth by DOAS and these Rules. The selected depository shall enter into an agreement with the Secretary of State that any goods and services provided the Division under the agreement will be subject to the appropriate purchasing procedures and any relevant state laws.

Cite as Ga. Comp. R. & Regs. R. 590-7-22-.04
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Depository" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-22-.05. Annual Registration Notifications.

(1) **Form.** The Secretary of State shall design the annual registration form. This form shall contain specific filing instructions.

(2) **Distribution.** The Secretary of State or his or her agent shall prepare and send the annual registration notices to registered limited liability companies.

(3) **Notification.** All active limited liability companies will be sent an annual registration notification as soon as possible after January 1 of each year. Annual registration notices may be sent by mail or by electronic methods, such as email. Annual registration notices will not be forwarded to those limited liability companies that have been withdrawn, revoked, terminated, or dissolved. Annual registration notices will not be forwarded to those active limited liability companies that failed to maintain a valid mailing address on file with the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-22-.05
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Annual Registration Notifications" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-22-.06. Annual Registration Updating.

The Division may update the annual registration data or employ the services of an outside contractor to update the annual registration data. If the form is not properly signed the Secretary of State is authorized to accept the filing and allow the signature on the check used to pay the fee to verify the existence of the facts on the form. Unless otherwise indicated, the signature on the annual registration form shall be deemed to be the signature of person authorized to sign the form by the filing limited liability company. The Secretary of State is authorized to enter into a contract or agreement to provide for the updating of annual registration information.

Cite as Ga. Comp. R. & Regs. R. 590-7-22-.06
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Annual Registration Updating" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-22-.07. Retention of Annual Registration.

The Secretary of State shall maintain all filed annual registrations for a period of five (5) years.

Cite as Ga. Comp. R. & Regs. R. 590-7-22-.07
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Retention of Annual Registration" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-22-.08. Failure to File Annual Registration.

A limited liability company that is on file with the Secretary of State or authorized to transact business in this State that fails to file its annual registration with the correct fee may be subjected to administrative dissolution or revocation in accordance with the provisions of Title 14 of the Official Code of Georgia Annotated.

Cite as Ga. Comp. R. & Regs. R. 590-7-22-.08
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Failure to File Annual Registration" adopted. F. May 11, 2017; eff. May 31, 2017

Rule 590-7-22-.09. Extensions of Filing Time.

The Secretary of State may extend the time of filing of the annual registration if he or she determines that it is in the public interest to do so and if additional time is needed to complete the updating of the limited liability company information and payment records of the limited liability company. In the event an order is issued regarding such extension, the Secretary of State is authorized to issue certificates of existence on those limited liability companies that are current through the preceding year.

Cite as Ga. Comp. R. & Regs. R. 590-7-22-.09
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Extensions of Filing Time" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-22-.10. Valid Period of Annual Registration.

(1) Notwithstanding any other law or rule to the contrary, each domestic limited liability company and foreign limited liability company may file an annual registration to be valid for a period up to and including three calendar years.

(2) On an annual registration, each domestic limited liability company or foreign limited liability company shall designate a period of one year, two years, or three years as the valid annual registration period of said annual registration filing. The annual registration filing shall be accompanied by the payment of the fee and penalties set forth in the Code and the fee schedule maintained by the Secretary of State for each calendar year included in the designated annual registration period.

(3) A limited liability company's next annual registration is due between January 1 and April 1 of the first calendar year following the end of the designated annual registration period in its most recent annual registration filing. For any limited liability company that reinstates following administrative dissolution, its next annual registration is due between January 1 and April 1 of the first calendar year following its reinstatement.

(4) If changes need to be made to a limited liability company's principal office address, registered agent, and/or registered office information on file with the Secretary of State prior to the next annual registration being due, then an amended annual registration shall be filed with the Secretary of State. The payment of the fee for an amended annual registration filing as set forth in the Code and the fee schedule maintained by the Secretary of State must accompany any such filing.

(5) Annual registration fees will not be refunded if a limited liability company is terminated, dissolved, merged out of existence, withdrawn, administratively dissolved, or revoked prior to the end of an annual registration period.

Cite as Ga. Comp. R. & Regs. R. 590-7-22-.10
Authority: O.C.G.A. §§ 14-5-23, 14-11-1103.1, 14-11-1105, 14-11-1106.
History. Original Rule entitled "Valid Period of Annual Registration" adopted. F. July 23, 2019; eff. August 12, 2019.

Subject 590-7-23. LIMITED LIABILITY COMPANIES - TERMINATIONS, DISSOLUTIONS, REVOCATIONS, AND WITHDRAWALS.

Rule 590-7-23-.01. Compliance with Filing Requirements.

(1) All domestic and foreign limited liability companies shall be in compliance with the annual registration provisions of the Code before filing a statement of commencement of winding up, certificate of termination, withdrawal, or merger out of existence with the Secretary of State. Any limited liability company that applies for termination, withdrawal, or merger out of existence between January 1 and April 1 of any year must file an annual registration for that calendar year and pay the required fees; provided, however, that an annual registration is not required to be filed if the limited liability company is applying for winding up, termination, withdrawal, or merger out of existence in the same calendar year that it was formed or authorized to transact business in Georgia.

(2) All fees and penalties shall be paid prior to any certificate of commencement of winding up, certificate of termination, certificate of withdrawal, or certificate of merger being issued by the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-23-.01
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, 14-11-1106.
History. Original Rule entitled "Compliance with Filing Requirements" adopted. F. May 11, 2017; eff. May 31, 2017.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-23-.02. Domestic Limited Liability Companies.

(1) **Winding Up.**

(a) A domestic limited liability company that has been dissolved in accordance with the procedures in the Code may file with the Secretary of State a statement of commencement of winding up.

(b) At the time of the filing of a statement of commencement of winding up, the limited liability company must be in compliance with the filing requirements of the Code and all fees or penalties, including annual registration fees, must be paid.

(c) The statement of commencement of winding up shall be in the form prescribed by the Code.

(d) The statement of commencement of winding up shall be examined for compliance with the Code and accepted or rejected for filing. A certificate shall be issued by the Secretary of State if the statement of commencement of winding up is accepted for filing.

(e) Publication regarding known and unknown claims of the dissolved limited liability company as provided for in the Code are the responsibility of the limited liability company.

(2) **Termination.**

(a) A dissolved domestic limited liability company may file a certificate of termination with the Secretary of State as allowed by the Code when the statements required to be included in the certificate can be truthfully made.

(b) At the time of the filing of certificate of termination, the limited liability company must be in compliance with the filing requirements of the Code and all fees or penalties must be paid, including annual registration fees due the calendar year of termination.

(c) The certificate of termination shall be in the form prescribed by the Code.

(d) The certificate of termination shall be examined for compliance with the Code and accepted or rejected for filing. A certificate shall be issued by the Secretary of State if the certificate of termination is accepted for filing.

(e) The automated database shall be marked to reflect the termination, and the certificate of termination shall be filed with other documents relating to the limited liability company.

(3) **Administrative Dissolution.**

(a) The Secretary of State may initiate the administrative dissolution of a domestic limited liability company if he or she finds that grounds for administrative dissolution exist as stated in the Code. Upon complying with the notice provisions and subsequent time period required by law, the Secretary of State may administratively dissolve the limited liability company.

(b) The automated database shall be marked to reflect the administrative dissolution, and a certificate of administrative dissolution citing the grounds for administrative dissolution shall be filed with other documents relating to the limited liability company.

(c) The administrative dissolution of a limited liability company does not terminate the authority of its registered agent.

(4) **Reinstatement.** A domestic limited liability company that has been administratively dissolved may be reinstated pursuant to the Code if an application in compliance with the Code is made within five years after the date of administrative dissolution.

Cite as Ga. Comp. R. & Regs. R. 590-7-23-.02
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Domestic Limited Liability Companies" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-23-.03. Foreign Limited Liability Companies.

(1) **Withdrawal.**

(a) Each foreign limited liability company must file an application for a certificate of withdrawal in order to terminate its authority to transact business in this state. If the foreign limited liability company is being dissolved or terminated in its home state, the application shall be accompanied by evidence of the dissolution or termination issued by its home state.

(b) At the time of the filing of the application for a certificate of withdrawal, the foreign limited liability company must be in compliance with the filing requirements of the Code and all fees and penalties must be paid, including the annual registration due the calendar year of withdrawal.

(c) A certificate of withdrawal shall be issued by the Secretary of State if he or she finds the filing to contain the necessary information and documents.

(d) The automated database shall be marked to reflect the withdrawal, and the certificate of withdrawal and application shall be filed with other documents relating to the foreign limited liability company.

(2) **Revocation.**

(a) The Secretary of State may commence a proceeding to revoke the certificate of authority to transact business in Georgia granted to a foreign limited liability company pursuant to the grounds and procedures stated in the Code. Upon complying with the notice provisions and subsequent time period required by law, the Secretary of State may administratively revoke the foreign limited liability company's certificate of authority.

(b) The automated database shall be marked to reflect the revocation of the foreign limited liability company's certificate of authority, and a certificate of revocation citing the grounds for revocation shall be filed with other documents relating to the foreign limited liability company.

(c) Revocation does not terminate the authority of the registered agent of the foreign limited liability company.

Cite as Ga. Comp. R. & Regs. R. 590-7-23-.03
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Foreign Limited Liability Companies" adopted. F. May 11, 2017; eff. May 31, 2017.

Subject 590-7-24. LIMITED LIABILITY COMPANIES - CERTIFICATION OF DOCUMENTS.

Rule 590-7-24-.01. Certificates, Copies, and Certified Copies.

(1) The Secretary of State shall provide:

(a) Copies or certified copies of any document, instrument, or paper relating to a limited liability company as available on the automated database, microfilm files, or other records maintained by the Secretary of State; and

(b) Certificates as authorized by the Code and rules promulgated thereunder.

(2) The Secretary of State is authorized to establish and impose minimum fees for the production and delivery of requested documents and certificates. Charges for such certificates and services shall be those published in the fee schedule maintained by the Secretary.

(3) Certificates and documents must be requested in written form or in electronic form, if available.

(4) The use of electronic ordering shall be in the manner authorized by the Secretary of State for such purpose. The Secretary of State may establish minimum fees for such electronic orders and provide for electronic funds transfer for the payment of such fees.

(5) Applicants must pay the applicable fees in advance, unless arrangements have been previously approved for invoicing charges for services.

(6) A submitted order will be reviewed to determine if copies and certificates can be prepared as requested, based on information contained in the automated database, the microfilm files, and the other records maintained by the Secretary of State. An order will be considered to have been completed when the order is processed or rejected and supporting documentation has been forwarded to the applicant.

(7) Pickup service is not available unless expedited processing is requested and approved.

(8) Expedited processing of certificates may be obtained by submitting a request for expedited processing. Expedited service may not be available if the requested documents have been referred to the Georgia Archives or other off-site storage facilities. The request for expedited processing must be accompanied by the payment of the expedited processing fee published in the fee schedule maintained by the Secretary of State, in addition to the applicable service fee. Form of payment shall be in the manner provided in Rule 590-7-19-.09. In the event expedited service is authorized, the documents, if available, and the requested documents and/or certificates will be prepared and furnished within the time frame specified on the fee schedule maintained by the Secretary of State. An expedited request for copies or certificates will be considered to have been completed when the order is processed or rejected and supporting documentation has been forwarded to the applicant.

Cite as Ga. Comp. R. & Regs. R. 590-7-24-.01
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, 14-11-1106.
History. Original Rule entitled "Certificates, Copies, and Certified Copies" adopted. F. May 11, 2017; eff. May 31, 2017.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-24-.02. Requests for Information.

(1) The Secretary of State may accept, but is not required to accept, telephone or electronic requests for information regarding filed documents and the certification of such documents.

(2) The applicant will be informed whether the requested documents are available based on the information contained in the automated database. All documents regarding foreign limited liability companies must be requested from the state in which the foreign limited liability company was originally formed ("home state") except the following documents if such information or document is on file with the Secretary of State:

(a) Application for a Certificate of Authority or Amended Certificate of Authority;

(b) Certificate of Authority to transact business in Georgia;

(c) Annual registration(s) in Georgia.

(3) If the documents appear to be available, the applicant may submit an order for said documents or certificates as provided in Rule 590-7-24-.01.

Cite as Ga. Comp. R. & Regs. R. 590-7-24-.02
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Requests for Information" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-24-.03. Forms of Certificates.

(1) The certificates provided by the Secretary of State shall include, but are not limited to, the following:

(a) **Certificate of Existence.** This certificate is generated from the automated database for active limited liability companies in good standing and in compliance with the applicable filing and annual registration provisions of the Code.

(b) **Certificate of Search.** This certificate is generated from the automated database for entities not found filed of record with the Secretary of State.

(c) **Certificate of Noncompliance.** This certificate is generated from the automated database for domestic and foreign limited liability companies on file with the Secretary of State that are not in good standing and are not in compliance with the applicable filing and annual registration provisions of the Code.

(d) **Certificate of Registered Agent and Registered Office**. This certificate is generated from the automated database and states the registered agent and registered office of record for a domestic or foreign limited liability company.

(e) **Certified Copies of Documents.** This certificate is generated from the automated database for any document, instrument, or paper relating to a domestic or foreign limited liability company as available on the automated database, microfilm files, or other records maintained by the Secretary of State.

(f) **Certificate of Fact - Special Research Request**. Certificates of Fact will be prepared and issued if a detailed request is made to the Secretary of State in writing. The staff will not interpret legal documents but will provide certifications of filings, names, and dates after conducting research of the records of the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-24-.03
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, 14-11-1106.
History. Original Rule entitled "Forms of Certificates" adopted. F. May 11, 2017; eff. May 31, 2017.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-24-.04. Certificate of Entity History (Long Form Certificate).

If a written request is made, the Secretary of State will provide a certificate of entity history for domestic limited liability companies. A cost reimbursement will be assessed and will be based on the amount of research time needed to prepare the certificate. The minimum charge for a complete historic research and the production of documents and certificates shall be published in the fee schedule maintained by the Secretary.

Cite as Ga. Comp. R. & Regs. R. 590-7-24-.04
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Certificate of Entity (Long Form Certificate)" adopted. F. May 11, 2017; eff. May 31, 2017.

Subject 590-7-25. LIMITED LIABILITY COMPANIES - SERVICE OF PROCESS.

Rule 590-7-25-.01. Designated Agents.

The Secretary of State or Assistant Corporation Commissioner shall designate by written order certain staff members of the Division to accept service of process on behalf of the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-25-.01
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Designated Agents" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-25-.02. Receipt of Service.

(1) Whenever by statute the Secretary of State is appointed or deemed to have been appointed the agent of any individual or entity for the purpose of service of any process, the Secretary of State may be served by:

(a) Mailing the required documents and fees to the Secretary of State at 2 Martin Luther King, Jr. Drive, Suite 313, West Tower, Atlanta, Georgia 30334;

(b) Delivering the required documents and fees to the address referred to in subparagraph (a); or

(c) By electronic transmission in the manner authorized by the Division on its website.

Cite as Ga. Comp. R. & Regs. R. 590-7-25-.02
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, 14-11-1106.
History. Original Rule entitled "Receipt of Service" adopted. F. May 11, 2017; eff. May 31, 2017.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-25-.03. Processing.

(1) Service of process documents filed at the office of the Secretary of State shall be processed in time receipt order. Expedited processing shall not be available for service of process filings.

(2) All requests for service of process on the Secretary of State shall be accompanied by:

(a) One complete copy for each party to be served, with said copy to include a summons dated and signed by the appropriate Clerk of Court and a complete complaint including civil action number;

(b) A statement identifying the Code section under which the filing is made;

(c) A written statement by the plaintiff or his or her attorney certifying that:

1. The limited liability company has failed either to maintain a registered office or appoint a registered agent in this State; and

2. A copy of the process, service or demand has been forwarded by registered mail, certified mail, or statutory overnight delivery to the most recent registered office or agent listed on the records of the Secretary of State and that service cannot be effected at such office.

(d) The payment of the fees as required by the Code or as listed on the fee schedule published by the Secretary of State.

(3) The Secretary of State shall issue to the person making the filing:

(a) An acknowledgement of receipt; or

(b) A certificate of filing of documents filed with the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-25-.03
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Processing" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-25-.04. Returned Documents.

(1) **Documents must be complete.** The Secretary of State may return any documents that are not complete and appropriate for filing. The returned documents shall be accompanied by a Notice with an explanation of the rejection or deficiency, and an acknowledgement of the receipt by the Secretary of State of the filing fee.

(2) **Correcting deficient filings.** The documents may be corrected and returned to the Secretary of State for processing. The filer must attach to the corrected and returned documents the Notice issued by the Secretary of State. If the corrected documents are returned to the Secretary of State by the applicant within sixty (60) days of the date of the Notice, the filing date will be the date the corrected and completed filing is received by the Secretary of State.

(3) **Abandoned filings.** If the filing is not returned to and received by the Secretary of State within sixty (60) days of the date of the Notice, it will be deemed abandoned and all records pertaining to the filing will be destroyed. A new filing, including payment of filing fees to the Secretary of State, will be required to complete the filing.

Cite as Ga. Comp. R. & Regs. R. 590-7-25-.04
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, 14-11-1106.
History. Original Rule entitled "Returned Documents" adopted. F. May 11, 2017; eff. May 31, 2017.
Amended: F. Nov. 26, 2018; eff. Dec. 16, 2018.

Rule 590-7-25-.05. Fees.

All fees, whenever possible, shall be paid by check. Each check shall have the name of the case written on it. Fees are non-refundable once the service documents are filed with the Secretary of State except as provided by statute.

Cite as Ga. Comp. R. & Regs. R. 590-7-25-.05
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Fees" adopted. F. May 11, 2017; eff. May 31, 2017.

Subject 590-7-26. LIMITED LIABILITY COMPANIES - INFORMATION CENTER.

Rule 590-7-26-.01. Information Center.

The Corporate Information Center ("CIC") established and maintained by the Secretary of State to promptly provide to the general public information on corporations registered and doing business in the State of Georgia pursuant to Title 14 of the Official Code of Georgia Annotated, shall also provide information on limited liability companies registered and doing business in the State of Georgia.

Cite as Ga. Comp. R. & Regs. R. 590-7-26-.01
Authority: O.C.G.A. §§ 14-11-1105 and 14-11-1106.
History. Original Rule entitled "Information Center" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-26-.02. Telephone Inquiries.

(1) The Secretary of State, during normal business hours, will accept up to three (3) inquiries per telephone call.

(2) The only information provided by telephonic inquiry shall be the information readily available from the automated database.

(3) The person requesting information will be informed whether the requested information is available in the automated database.

(4) The following information, if available on the computer system, will be provided:

  (a) Limited liability company name;

  (b) Status;

  (c) Date of formation;

  (d) State of original formation;

  (e) Registered office and agent;

  (f) Annual registration status.

(5) If the information is not readily available from the automated database, the person requesting the information may place an order to have the information provided by mail.

(6) The order will be reviewed to determine if the information requested is available from the automated database, the microfilm files, and other records maintained by the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-7-26-.02
Authority: O.C.G.A. §§ 14-11-1105 and 14-11-1106.
History. Original Rule entitled "Telephone Inquiries" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-26-.03. Legal Interpretations.

The personnel in the CIC and Division are not authorized to provide legal interpretations concerning the Code or to provide tax and business advice.

Cite as Ga. Comp. R. & Regs. R. 590-7-26-.03
Authority: O.C.G.A. §§ 14-11-1105 and 14-11-1106.
History. Original Rule entitled "Legal Interpretations" adopted. F. May 11, 2017; eff. May 31, 2017.

Subject 590-7-27. LIMITED LIABILITY COMPANIES - AUTOMATED DATA PROCESSING SYSTEM.

Rule 590-7-27-.01. Authority.

The Secretary of State is authorized to establish and maintain a database on electronic data processing equipment. The database established and maintained for entities which file with the Secretary of State pursuant to Title 14 of the Official Code of Georgia Annotated shall also include information on limited liability companies.

Cite as Ga. Comp. R. & Regs. R. 590-7-27-.01
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Authority" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-27-.02. Records.

(1) The Secretary of State is authorized to maintain all records and documents required or authorized to be filed by the Code in original form or by means of microfilm, microfiche, microphotographic reproduction, photographic reproduction, word processing, computerization, optical disk, electronic disk or diskette storage or other acceptable reproductive methods.

(2) The Secretary of State, after verification of the historic microfilm of limited liability company documents to the automated database maintained by the Secretary of State, may rely on such automated database for the purpose of providing information, certifications, and the issuance of name certificates.

(3) The Secretary of State shall maintain the integrity of the automated database. In the event of a malfunction in the electronic equipment or errors in the software programs, the Secretary of State shall not be liable for the release of incorrect data or the issuance of a

name certificate that is not distinguishable from another entity filed with the Secretary of State pursuant to the Code.

Cite as Ga. Comp. R. & Regs. R. 590-7-27-.02
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Records" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-27-.03. Public Access.

(1) The Secretary of State has determined that it is in the public interest to provide efficient and immediate access to the information contained in the automated database. Pursuant to these rules, direct access to the database shall be provided on a non-discriminatory basis.

(2) The Secretary of State is authorized to provide inquiry only access to the automated database on a terminal located in the public access area of the Division, if he or she finds that it is in the public interest to provide such service and sufficient equipment is available to accommodate the demand for such service. In order to provide equal access to the information the Secretary of State is authorized to post a use time schedule for access to such terminal.

Cite as Ga. Comp. R. & Regs. R. 590-7-27-.03
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Public Access" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-27-.04. Electronic Filings.

(1) The Secretary of State is authorized to accept electronic filings for all documents authorized, permitted, or required to be filed under the Code regarding limited liability companies.

(2) Prior to accepting electronic filings the Secretary of State shall:

   (a) Determine that appropriate and sufficient security precautions have been devised to maintain the integrity of the filings and the database; and

   (b) Determine that it is in the public interest to offer electronic filings to the public.

(3) The Secretary of State is authorized to develop and publish policies and procedures necessary to effectuate electronic filings into the automated database. Such policies and procedures shall be made available to applicants seeking approval to utilize electronic filing.

Cite as Ga. Comp. R. & Regs. R. 590-7-27-.04
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Electronic Filings" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-27-.05. Service Charges.

The Secretary of State may impose service charges in order to have immediate electronic access to, or the ability to make electronic filings into, the automated database. Such charges shall be posted on the fee schedule prepared and maintained by the Secretary of State. Service charges may be changed by the posting by the Secretary of State of such changes in the public access area of the Division offices for a minimum of thirty (30) days prior to any such change being effective.

Cite as Ga. Comp. R. & Regs. R. 590-7-27-.05
Authority: O.C.G.A. §§ 14-5-23, 14-11-1105, and 14-11-1106.
History. Original Rule entitled "Service Charges" adopted. F. May 11, 2017; eff. May 31, 2017.

Subject 590-7-28. CABLE/VIDEO STATE FRANCHISE.

Rule 590-7-28-.01. Definitions.

(1) **"Cable Service Provider".** As used herein the term "cable service provider" means an entity providing cable service as defined in O.C.G.A. § 36-76-2.

(2) **"Franchise" or "State Franchise".** As used herein the term "franchise" or "state franchise" means an initial authorization or renewal of an authorization issued by the Secretary of State to a cable service provider or video service provider that authorizes the construction or operation of a cable service provider or video service provider's network in the public rights of way.

(3) **"Franchise Authority" or "State Franchise Authority".** As used herein the term "franchise authority" or "state franchise authority" means the Secretary of State.

(4) **"Holder" or "Certificate Holder".** As used herein the term "holder" or "certificate holder" means a cable service provider or video service provider that has been issued a state franchise.

(5) **"Public Right of Way".** As used herein the term "public right of way" means the area in, on, along, over, or under the public roads that are part of the municipal or county road system or the state highway system.

(6) **"Service Area".** As used herein the term "service area" means the geographic territory within a municipality or unincorporated area of a county where a cable service provider or video service provider provides or has proposed to offer cable service or video service pursuant to a franchise.

(7) **"State Franchise Certificate".** As used herein the term "state franchise certificate" means the certificate issued by the Secretary of State certifying that a state franchise has been issued by the Secretary of State to the certificate holder.

(8) **"Video Service Provider".** As used herein the term "video service provider" means an entity providing video service as defined in O.C.G.A. § 36-76-2.

Cite as Ga. Comp. R. & Regs. R. 590-7-28-.01
Authority: O.C.G.A. § 36-76-2.
History. Original Rule entitled "Definitions" adopted. F. May 11, 2017; eff. May 31, 2017.

Rule 590-7-28-.02. Renewal of State Franchise.

(1) A state franchise shall be effective for a term of ten years from the date of issuance; and, upon application filed within six (6) months prior to the expiration of such term on a form to be furnished by the Secretary of State, the state franchise may be renewed for a like term. There is no fee for renewal except a $50.00 processing fee payable to the Secretary of State, which shall accompany the application for renewal of the state franchise. The holder of a renewing state franchise shall provide a copy of its renewal application to each affected municipal or county governing authority within seven (7) business days following the delivery of the application to the Secretary of State.

(2) A state franchise may be renewed for successive periods of ten (10) years in like manner.

(3) The Secretary of State may send a renewal notification to holders of state franchises within six (6) months preceding the expiration of the state franchise for informational purposes. The renewal notification will be sent by mail or electronic methods, such as email, to the last known address of the holder. Renewal notifications will not be sent to those state franchises that are expired or terminated.

(4) Pursuant to O.C.G.A § 36-76-4(d)(3), a state franchise expires if it is not renewed by its expiration date. An expired state franchise may not be renewed or reinstated. If the holder of an expired state franchise wishes to continue to hold a state franchise in Georgia, then that holder must apply for a new state franchise.

Cite as Ga. Comp. R. & Regs. R. 590-7-28-.02
Authority: O.C.G.A § 36-76-4.
History. Original Rule entitled "Renewal of State Franchise" adopted. F. May 11, 2017; eff. May 31, 2017.

Subject 590-7-29. STRUCTURED SETTLEMENT PURCHASE COMPANIES.

Rule 590-7-29-.01. Definitions.

(1) **Annuity Issuer.** As defined herein the term "annuity issuer" means an insurer that has issued a contract to fund periodic payments under a structured settlement.

(2) **Assistant Corporation Commissioner.** As used herein all references to the "Assistant Corporation Commissioner" shall mean the Assistant Corporation Commissioner appointed by the Secretary of State as the Director of the Corporations Division

(3) **Code.** As used herein, all citations to "the Code" or "Code" refers to the Georgia Structured Settlement Protection Act (O.C.G.A. 51-12-71, et seq.), as amended.

(4) **Division**. As used herein all references to "Division" shall mean the Corporations Division of the Office of the Secretary of State which is the division that is delegated the authority by the Secretary of State to administer the provisions of the Code.

(5) **Entity.** As used herein, the term "entity" includes corporation, general partnership, limited liability company, limited partnership, limited liability partnership, and business trust.

(6) **Fee Schedule.** As used herein the term "fee schedule" shall mean the schedule published and maintained by the Secretary of State clearly setting forth the fees and charges for documents filed with the Division and for services provided by the Secretary of State and the Division. Fees and charges may only be changed by the posting by the Secretary of State of such changes in the public access area of the Division offices for a minimum of thirty (30) days prior to such change being effective.

(7) **Individual.** As used herein the term "individual" means a natural person.

(8) **Person.** As used herein all references to "person" includes an individual and entity as defined herein.

(9) **Rule**. As used herein all references to "Rule" or "the Rules" shall mean the rules as they appear in the "Official Compilation, Rules and Regulations of the State of Georgia" as compiled and printed by the Secretary of State pursuant to the Georgia Administrative Procedure Act, O.C.G.A. §§ 50-13-1 et seq.

(10) **Secretary of State**. As used herein all references to the "Secretary of State" shall mean the Secretary of State of the State of Georgia.

(11) **Structured Settlement.** As used herein the term "structured settlement" means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim.

(12) **Structured Settlement Agreement.** As used herein the term "structured settlement agreement" means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

(13) **Structured Settlement Obligor.** As used herein the term "structured settlement obligor" means, with respect to any structured settlement, the party that has the continuing obligation to make periodic payments to the payee under a structured settlement agreement or qualified assignment agreement.

(14) **Structured Settlement Payment Rights.** As used herein the term "structured settlement payment rights" means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, where the payee is domiciled in this state or the structured settlement agreement was approved by a court in this state.

(15) **Structured Settlement Purchase Company.** As used herein the term "structured settlement purchase company" means a person that acts as a transferee in this state and who is registered with the Secretary of State pursuant to O.C.G.A. Section 51-12-73.

(16) **Transfer.** As used herein the term "transfer" means any sale, assignment, pledge, hypothecation, or other alienation or encumbrance of structured settlement payment rights made by a payee for consideration. Such term shall not include the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, in the absence of any action to redirect the structured settlement payments to such insured depository institution, or an agent or successor in interest thereof, or otherwise to enforce such blanket security interest against the structured settlement payment rights.

(17) **Transferee.** As used herein the term "transferee" means a party acquiring or proposing to acquire structured settlement payment rights through a transfer.

Cite as Ga. Comp. R. & Regs. R. 590-7-29-.01
Authority: O.C.G.A. § 51-12-73.
History. Original Rule entitled "Definitions" adopted. F. Apr. 27, 2022; eff. May 17, 2022.

Rule 590-7-29-.02. Fees, Charges, and Penalties.

(1) The Secretary of State shall publish a comprehensive list of filing fees, charges, penalties and other fees collected by the Division. Fees, charges, and penalties may only be changed by the posting by the Secretary of State of such changes in the public access area of the Division offices for a minimum of thirty (30) days prior to such changes being effective.

(2) Every registration, renewal, or other filing required or permitted pursuant to the Code or any Rule or Regulation promulgated thereunder shall be accompanied by the required fee or funds as listed on the fee schedule published and maintained by the Secretary of State. All filing fees shall be immediately docketed into the automated database by the staff of the Secretary of State. Docketing of the filing fees shall be for accounting and document

control only and shall not constitute acceptance of the filing nor shall it imply that the filer has met the filing requirements of the Code.

(3) No registration, renewal, or other filing required or permitted pursuant to the Code or any Rule shall be considered officially received by the Secretary of State unless said documents are accompanied by the required fee or funds. Said fee or funds shall be received by the Secretary of State or by a person designated by the Secretary of State.

(4) All fees, charges, and penalties are nonrefundable unless specifically authorized by the Secretary of State or Assistant Corporation Commissioner and a written request for refund is received from the filer.

(5) All fees, charges, and penalties are nontransferable unless specifically authorized by the Secretary of State or Assistant Corporation Commissioner.

(6) All filing fees, charges, and penalties shall not be deemed to be paid unless payment is made in United States currency, certified funds, or until any check given for such fees, charges or penalties has been paid by the financial institution upon which such check is drawn.

(7) Fees paid by check or money order shall have the name of the proposed structured settlement purchase company or, in the case of a registered structured settlement purchase company, the structured settlement purchase company registrant's name or registration number written on it.

(8) All invoices for certificates, copies, or other charges are due immediately upon receipt. Failure to pay the invoice may result in the invoice being referred for collection and in any future payment being accepted only if submitted by cashier's check or United States Postal Service money order.

(9) The Secretary of State may impose service charges in order for persons to have the ability to make electronic filings into the automated database. Such charges shall be posted on the fee schedule prepared and maintained by the Secretary of State.

(10) The Secretary of State may impose service charges for the filing of documents in paper format. Such charges shall be posted on the fee schedule prepared and maintained by the Secretary of State.

(12) No filing will be accepted by the Secretary of State without the payment of any past due fees, charges, or penalties assessed pursuant to the Code or the Rules promulgated thereunder.

Cite as Ga. Comp. R. & Regs. R. 590-7-29-.02
Authority: O.C.G.A. § 51-12-73.
History. Original Rule entitled "Fees, Charges, and Penalties" adopted. F. Apr. 27, 2022; eff. May 17, 2022.

Rule 590-7-29-.03. Dishonored Payments.

(1) Checks or other forms of payment returned to the Secretary of State because of nonpayment and/or charge backs of credit card or debit card payments (hereinafter referred to as the "dishonored" or "dishonored payment") shall be processed according to the following procedures:

(a) **Pending Filings.**

1. The filing for which the payment was made shall be placed in "pending," "hold," or similar status and the nonpayment of fees noted upon the records of the Secretary of State;

2. A notice of nonpayment demanding immediate payment shall be issued to the person who submitted the payment;

3. If payment is not received within sixty (60) calendar days from the date of notice of nonpayment, the filing will be deemed abandoned as provided in Rule 590-7-29-.05(3); and

4. If the filing is deemed abandoned, all records pertaining to the filing shall be destroyed and a new filing, including the payment of filing fees, shall be required. Any filing fees submitted with the new filing may be required to be paid by cashier's check or United States Postal Service money order.

(b) **Completed Filings.**

1. The structured settlement purchase company for which the filing was made shall be deemed to be not in good standing by the Secretary of State. The records of the structured settlement purchase company maintained by the Secretary of State shall be marked to show such status and to show the nonpayment of fees;

2. A notice of nonpayment demanding immediate payment shall be issued to the person who submitted payment;

3. If payment is not received within sixty (60) calendar days from the date of the notice of nonpayment, written notice shall be issued stating the Secretary of State's intent to revoke the structured settlement purchase company's registration and the grounds therefore. A copy of the notice of nonpayment may be attached to the notice of intent to revoke and mailed to the structured settlement purchase company at the last known address of its principal office; and

4. If payment is not received sixty (60) calendar days from the date of the notice of intent to revoke, the structured settlement purchase company's registration shall be revoked.

(c) **Services.**

1. The records of the Secretary of State for the structured settlement purchase company, entity or person which requested the services shall be marked to reflect nonpayment for the services performed;

2. A notice of nonpayment demanding immediate payment shall be issued to the structured settlement purchase company, entity or person who submitted payment; and

3. If payment is not received within thirty (30) calendar days from the date of notice of nonpayment, a second notice will be issued to the structured settlement purchase company, entity or person who requested the service. The notice shall state that if payment is not made immediately, all payments for services, fees and filings submitted by the structured settlement purchase company, entity or person shall be required to be made by cashier's check or United States Postal Service money order.

(2) Subsequent requests for services or subsequently submitted filings from any structured settlement purchase company, entity or person that has submitted payment which has been dishonored may be required to be accompanied by cashier's check or United States Postal Service money order.

(3) Payments tendered for returned checks which are also dishonored shall be redeemed by cashier's check or United States Postal Service money order only.

(4) The Secretary of State may require the payment of any service charge in addition to the amount owed as a result of any dishonored payment. Such service charge shall be published in the fee schedule maintained by the Secretary of State.

(5) The records of the Secretary of State may be marked to show nonpayment status for any structured settlement purchase company, entity, or person that has submitted payment which has been dishonored.

Cite as Ga. Comp. R. & Regs. R. 590-7-29-.03
Authority: O.C.G.A. § 51-12-73.
History. Original Rule entitled "Dishonored Payments" adopted.F. Apr. 27, 2022; eff. May 17, 2022.

Rule 590-7-29-.04. Filing of Documents.

(1) The filing of the documents by a structured settlement purchase company shall be made with the Secretary of State in the following manner:

(a) By mailing the required documents and fees to the Secretary of State at 2 Martin Luther King, Jr. Drive, Suite 313 West Tower, Atlanta, Georgia 30334;

(b) By delivering the required documents and fees to the Secretary of State at the address referred to in subparagraph (a) above; or

(c) By electronic transmission in the manner authorized by the Division on its website.

(2) Documents filed with the Secretary of State shall be processed in time receipt order. Expedited processing shall not be available for structured settlement purchase company filings.

(3) The documents presented for filing shall be written in English, shall be of sufficient quality for legible reproduction by microfilm, and shall be typed or printed on white, letter-size (8 1/2" x 11") paper in black or blue ink only.

Cite as Ga. Comp. R. & Regs. R. 590-7-29-.04
Authority: O.C.G.A. § 51-12-73.
History. Original Rule entitled "Filing of Documents" adopted.F. Apr. 27, 2022; eff. May 17, 2022.

Rule 590-7-29-.05. Returned Documents.

(1) **Documents must be complete.** The Secretary of State may return any documents that are not complete and appropriate for filing. The returned documents shall be accompanied by a Deficient Document Notice with an explanation of the rejection or deficiency, and an acknowledgement of the receipt by the Secretary of State for the filing fee, if applicable.

(2) **Correcting deficient filings.** The documents may be corrected and returned to the Secretary of State for processing. The filer must attach to the corrected and returned documents the Deficient Document Notice issued by the Secretary of State. If the corrected documents are returned to the Secretary of State by the filer within sixty (60) days of the date of the Deficient Document Notice, the filing date will be the date the corrected and completed filing is received by the Secretary of State.

(3) **Abandoned filings.** If the filing is not returned to and received by the Secretary of State within sixty (60) days of the date of the Deficient Document Notice, it will be deemed abandoned and all records pertaining to the filing may be destroyed. A new filing, including payment of the filing fees to the Secretary of State, will be required to complete the filing.

Cite as Ga. Comp. R. & Regs. R. 590-7-29-.05
Authority: O.C.G.A. § 51-12-73.

History. Original Rule entitled "Returned Documents" adopted.F. Apr. 27, 2022; eff. May 17, 2022.

Rule 590-7-29-.06. Renewal of Structured Settlement Purchase Company Registration.

(1) A structured settlement purchase company registration shall be effective for a term of one (1) year from the date of issuance; and, upon renewal application filed within sixty (60) days prior to the expiration of such term on a form to be furnished by the Secretary of State, the registration may be renewed for a like term. The fee for renewal is listed in the fee schedule published and maintained by the Secretary of State, and the fee payment, payable to the Secretary of State, shall accompany the application for renewal of the registration. Also accompanying the renewal application shall be a copy of the bond, letter of credit, or cash bond in compliance with the provisions of the Georgia Structured Settlement Protection Act (O.C.G.A. 51-12-71, et seq.).

(2) A structured settlement purchase company registration may be renewed for successive periods of one (1) year in like manner.

(3) The Secretary of State may send a renewal notification to a structured settlement purchase company registrant within sixty (60) days preceding the expiration of the registration for informational purposes. The renewal notification will be sent by mail or electronic methods, such as email, to the last known address of the registrant. Renewal notifications will not be sent to those registrants with expired, cancelled, inactive, or terminated registrations.

(4) A structured settlement purchase company registration expires if it is not renewed by its expiration date. An expired registration may not be renewed, reactivated, or reinstated. If the registrant wishes to continue to be registered as an active structured settlement purchase company in Georgia, then that registrant must apply for a new structured settlement purchase company registration.

Cite as Ga. Comp. R. & Regs. R. 590-7-29-.06
Authority: O.C.G.A. § 51-12-73.
History. Original Rule entitled "Renewal of Structured Settlement Purchase Company Registration" adopted.F. Apr. 27, 2022; eff. May 17, 2022.

Chapter 590-8. ELECTIONS DIVISION.

Subject 590-8-1. CERTIFICATION OF VOTING SYSTEMS.

Rule 590-8-1-.01. Certification of Voting Systems.

(a) **Purpose.**

1. These Rules establish performance requirements and characteristics for voting systems and their components used in the State of Georgia and identify performance characteristics of these systems and components.

2. Compliance with the requirements of these Rules shall be assessed by means of code analysis, formal tests, and documentation review.

3. The intent of these Rules is to assure that hardware, firmware, and software have been shown to be reliable, accurate, and capable of secure operation before they are used in elections in the State. Hardware, firmware, and software products with performance proven in commercial applications are deemed inherently acceptable, provided that they are shown to be compatible with the operational and administrative requirements of the voting environment. Products not in wide commercial use, regardless of their performance histories, shall require Qualification, Certification, and Acceptance tests before they can be used.

4. These rules are intended to assist local jurisdictions in identifying products and provide a standardized terminology which shall facilitate the specification and demonstration of system requirements.

(b) **Applicability.**

1. These Rules are applicable to voting systems first used in the State of Georgia on or after the effective date of these Rules. These Rules are waived for all voting systems in use in the State of Georgia as of the effective date of these Rules. Successful performance during past elections are deemed sufficient evidence of adequate design. These Rules shall apply to systems developed by non-governmental third parties and those developed in-house by a local government.

2. These Rules apply to all equipment and computer programs used in a voting system including, but not limited to, the hardware, firmware, and software required for defining an election, formatting ballots, setting up precincts for voting, recording votes, tallying the results, and producing all reports.

3. These Rules apply to any agency, group, or individual responsible for the analysis, design, manufacture, procurement, or use of voting systems, their subsystems, or their components.

4. Any modification to the hardware, firmware, or software of a voting system which has completed Qualification, Certification, or Acceptance testing in accordance with these Rules shall invalidate the State certification unless it can be shown that the modification does not affect the overall flow of program control or the manner in which the ballots are recorded and the vote data are processed, *and* the modification falls into one of the following classifications listed below. The Secretary of State shall be the sole judge of whether or not a modification requires additional testing.

(i) The modification is made for the purpose of correcting a defect and procedural and test documentation is provided which verifies that the installation of the hardware change or corrected code does not result in any consequence other than the elimination of the defect.

(ii) The modification is made for the purpose of enabling interaction with other general purpose or approved equipment or computer programs and databases, and procedural and test documentation is provided which verifies that such interaction does not involve or adversely affect vote counting and data storage.

5. The addition or alteration of utility software and device handlers which do not interact with vote counting software except through the intended input/output channels in the manner originally intended does not constitute a requirement for a mandatory retest.

(c) **Reciprocity.** The Secretary of State may accept the results of the Qualification tests and/or Certification tests from another state or testing agency that has performed the tests described in these Rules. This reciprocity does not extend to the Acceptance tests or any portion of the Certification tests, which are considered to be unique to the State of Georgia.

(d) **Procedure.** This review and approval procedure is limited to those voting systems and equipment that have passed the prototype stage and are in full production and available for immediate installation and use. Qualification tests shall be performed to evaluate the degree to which a system complies with the requirements of the *Voting Systems Standards* issued by the Election Assistance Commission (EAC). Whenever possible, Qualification tests shall be conducted by Independent Test Agencies (ITA) certified by the EAC. In the event that tests by an ITA are not feasible, these tests shall be conducted by a Georgia Certification Agent designated by the Secretary of State.

Certification tests shall be performed to certify that the voting system complies with the Georgia Election Code, the Rules of the Georgia State Election Board, and the Rules of the Secretary of State. A Georgia Certification Agent designated by the Secretary of State shall conduct certification tests. The Qualification and Certification testing of a voting system for use in the State of Georgia shall proceed in the following steps.

1. **Qualification.** Prior to submitting a voting system for certification by the State of Georgia, the proposed voting system's hardware, firmware, and software must have been issued Qualification Certificates from the EAC. These EAC Qualification Certificates must indicate that the proposed voting system has successfully completed the EAC Qualification testing administered by EAC approved ITAs. If for any reason, this level of testing is not available, the Qualification tests shall be

conducted by an agency designated by the Secretary of State. In either event, the Qualification tests shall comply with the specifications of the *Voting Systems Standards* published by the EAC.

2. **Letter of Request.** After the voting system has completed EAC Qualification testing, the evaluation procedure to obtain certification for use of the voting system in the State of Georgia shall be initiated by letter from the vendor of the voting system to the Office of the Secretary of State requesting certification for a specific voting system. The Secretary of State or her representative shall notify the vendor of the earliest date after which the requested evaluation may begin and provide the vendor with the name and telephone number of the designated Georgia Certification Agent.

3. **Submission of Complete Technical Data Package.** The vendor shall submit the Technical Data Package described in section (g) to the Certification Agent designated by the State. The Certification Agent shall review the submission of the Technical Data Package and notify the vendor of any deficiencies. Certification of the voting system shall not proceed until the Technical Data Package is complete.

4. **Preliminary Review.** The Georgia Certification Agent shall conduct a preliminary analysis of the Technical Data Package and prepare an Evaluation Proposal containing the following information:

   (i) Components of the voting system requiring evaluation.

   (ii) Identification of any hardware or software components requiring additional testing by the EAC ITAs.

   (iii) Description of the activities required to complete that portion of the evaluation which is to be performed by the Georgia Certification Agent.

   (iv) Estimate of time required to complete the portion of the evaluation, which is to be performed by the Georgia Certification Agent.

   (v) Estimate of cost of tests which are to be performed by the Georgia Certification Agent.

5. **Authorization to Proceed.** The vendor shall review the Evaluation Proposal and notify the Secretary of State, in writing, of the desire to continue or terminate the evaluation process. The evaluation of the system shall not begin until the manufacturer or vendor notifies the Secretary of State to proceed. A copy of this notification shall be sent to the Georgia Certification Agent. A decision to continue shall obligate the vendor to the cost of the evaluation contained in the Evaluation Proposal.

6. **Evaluation.** The vendor shall arrange with the EAC ITAs for any additional required ITA testing identified in the Evaluation Proposal. After any required ITA tests have been successfully completed, the Georgia Certification Agent shall conduct the tests described in the Evaluation Proposal and submit a report of the findings to the Secretary of State.

7. **Certification.** Based on the information contained in the report from the Georgia Certification Agent, and any other information in her possession, the Secretary of State shall determine whether the proposed voting system shall be certified for use in the State of Georgia and so notify the vendor.

8. **Local Jurisdiction Acceptance.** After a voting system is delivered to a local jurisdiction, acceptance tests shall be performed in the user's environment to demonstrate that the voting system as delivered and installed is identical to the system that was certified by the State and satisfies the requirements specified in the procurement documents.

(e) **Proprietary Information.** The State of Georgia shall make every effort to protect the proprietary nature of information provided to the State or its agents during the course of these evaluations in accordance to Georgia law for protecting proprietary information. Any proposed non-disclosure agreements shall be of the type and form in common commercial usage appropriate to similar situations and shall be subject to review and approval by the Georgia Attorney General.

(f) **Audit and Validation of Certification.**

1. It shall be the responsibility of the vendor to ensure that any voting system or component of a voting system that it markets or supplies for use in the State of Georgia has been certified by the Secretary of State. It is also the responsibility of the vendor to submit any modifications to a previously certified system or component to the Secretary of State for re-certification and to update the Technical Data Package on file in the Office of the Secretary of State to accurately reflect the modifications.

2. If any question arises involving the certification of a voting system or a component of a voting system in use in the State, the Technical Data Package and Certification documentationon file in the Office of the Secretary of State shall be used to verify that the system or component in question is *identical* to the system or component that was submitted for certification.

(g) **Technical Data Package.** Before evaluation can begin, the vendor must submit to the Georgia Certification Agent the Technical Data Package required to complete the evaluation of the proposed voting system. Each item in the Technical Data Package must be clearly identified. If the Technical Data Package is incomplete or the items in the package are not clearly identified, the entire package may be returned to the vendor and

the evaluation of the voting system rescheduled. In most cases, the Technical Data Package submitted to the ITAs shall be sufficient for State certification.

The Technical Data Package shall contain the following items in hard copy and in electronic form when available.

(i) *Customer Maintenance Documentation*. Documentation describing any maintenance that the vendor recommends that can be performed by a customer with minimal knowledge of the system.

(ii) *Operations Manual*. Operations documentation that is normally supplied to the customer for use by the person(s) who shall operate the equipment.

(iii) *Software Source Code*. Source code of all software and firmware in the voting system. The source code shall be supplied in the form of a listing and in a machine-readable form on media that is acceptable to the Georgia Certification Agent. If there is any chance of ambiguity, the required compiler(s) and/or development environment must be specified.

(iv) *Software System Design*. Documentation describing the logical design of the software. This documentation should clearly indicate the various modules of the software, their functions, and their interrelationships. The minimum acceptable documentation is a system flowchart. Deviation of the source code from the system design may be cause for rejection of the voting system.

(v) *Customer Documentation*. A complete set of all documentation which is available to the purchaser/user of the voting system. Clearly identify that documentation which is included in the cost of the system and that documentation which is available for an additional charge.

(vi) *ITA Qualification Reports*. Copies of the ITA reports for the hardware and software qualification of the voting system. These reports must be sent directly from the ITA to the Georgia Certification Agent.

(vii) *Formal Complaints and Decertification Notices.* Copies of any formal complaints and/or decertification notices that have been filed against the proposed system. This documentation must clearly identify the jurisdiction filing the complaint or decertification notice and give the details of the resolution.

(viii) *Test Data/Software (Optional)*. Any available test data, ballot decks, and/or software that can be used to demonstrate the various functions of the voting system. Although optional, these items can significantly reduce the effort, and hence the time and cost, involved in the evaluation of the system.

Cite as Ga. Comp. R. & Regs. R. 590-8-1-.01
Authority: O.C.G.A. Secs. 21-2-1, 21-2-50, 21-2-253, 21-2-368, 21-2-379.2.

History. Original Rule entitled "Certification of Voting Equipment" adopted. F. Jan. 21, 1988; eff. Feb. 10, 1988. Repealed: New Rule entitled "Certification of Voting Systems" adopted. F. Mar. 28, 2005; eff. Apr. 17, 2005.

Rule 590-8-1-.02. Verification of Voter Registration Information.

(1) The board of registrars shall enter the information contained on voter registration applications into the statewide voter registration database in a timely manner.

(2) Verification of applicant's United States citizenship.

(a) Georgia driver's license number or identification card number.

1. If an applicant submits an application for registration and uses the applicant's Georgia driver's license number or identification card number for evidence of United States citizenship purposes, the Secretary of State shall attempt to match such number to the Department of Driver Services database.

2. If the Department of Driver Services records indicate that the applicant is not a United States citizen in the Department of Driver Services database, the Secretary of State shall attempt to verify the applicant's United States citizenship status with the United States Citizenship and Immigration Services utilizing the Systematic Alien Verification for Entitlements program. Such verification will indicate whether the applicant is designated as a citizen of the United States within the Verification Information System database.

3. If the Department of Driver Services cannot confirm that the applicant has provided satisfactory evidence of United States citizenship to the Department of Driver Services and the Secretary of State cannot confirm the applicant's United States citizenship through the Systematic Alien Verification for Entitlements program, the board of registrars shall take the following steps:

(i) The board of registrars shall ensure that the Georgia driver's license number or identification card number was entered correctly into the statewide voter registration system. If the board of registrars determines the number was not entered correctly, the board of registrars shall correct the driver's license number or identification card number in the statewide voter registration system. The Secretary of State shall match the new driver's license number or identification card number to the Department of Driver Services database.

(b) Alien registration number.

1. If only the alien registration number from an applicant's naturalization documents is provided for United States citizenship purposes, the Secretary of State shall attempt to verify the applicant's alien registration number with the United States Citizenship and Immigration Services utilizing the Systematic Alien Verification for Entitlements program.

Cite as Ga. Comp. R. & Regs. R. 590-8-1-.02
Authority: O.C.G.A. Secs. 21-2-216.
History. Original Rule entitled "Verification of Voter Registration Information" adopted. F. Dec. 16, 2009; eff. Jan. 5, 2010.

Subject 590-8-2. HELP AMERICA VOTE ACT OF 2002 PROVISIONS.

Rule 590-8-2-.01. Administrative Complaint Procedure for Violations of Title III of the Help America Vote Act of 2002.

(1) Any person who believes that a violation of any provision of Title III of the Help America Vote Act of 2002 (Public Law 107-8209;252; 42 U.S.C. 15301, *et seq.*) has occurred, is occurring, or is about to occur may file a complaint with the Secretary of State. Such complaint shall be open to inspection by the public during business hours upon reasonable notice.

(2) Such complaint shall be in writing and shall be signed and sworn to by the person making the complaint and shall be properly notarized in accordance with state law. The complaint shall be delivered to and served upon the Secretary of State as the chief state election official in person, by U.S. Mail, or by guaranteed overnight delivery.

(3) The Secretary of State shall investigate the allegations of such complaint. If more than one complaint is filed concerning the same alleged violation, the Secretary of State may consolidate such complaints for investigation.

(4) If the complainant requests, the Secretary of State or a designee thereof shall conduct a hearing on the allegations of the complaint. Such hearing may be by telephone, conference call, or in person and shall be recorded.

(5) If the Secretary of State or a designee thereof determines that such complaint is unfounded, the Secretary of State may dismiss the complaint and notify the complainant of her decision. The Secretary of State shall make the results of her investigation into the complaint available for public inspection during normal business hours upon reasonable notice after the matter has been resolved

(6) The Secretary of State or designee thereof shall make a determination of the validity of the complaint within 90 days following the date on which the complaint is received by

and filed with the Secretary of State unless the complainant agrees to an extension of such time period.

(7) If the Secretary of State or designee thereof determines that such complaint is valid, the Secretary of State shall take all necessary and appropriate actions within her authority to address the violation; and

(8) If the Secretary of State or designee thereof does not render a final determination on a complaint filed pursuant to this rule within 90 days after the complaint is filed, or within any extension period to which the complainant has agreed, the Secretary of State or designee thereof will, on or before the third business day after the final determination was due to be issued, initiate proceedings for alternative dispute resolution;

(a) To facilitate alternative dispute resolution, the Secretary of State shall maintain a list of qualified independent professionals who are capable of acting as a mediator, from which the Secretary of State or designee thereof and the complainant shall each choose one mediator to review the case.

(b) The Secretary of State or designee thereof shall designate in writing to the complainant the name of a mediator from the list referenced in section (a) to serve on an alternative dispute resolution panel (resolution panel) to review the complaint.

1. If proceedings for alternative dispute resolution are initiated pursuant to this paragraph, not later than 3 business days after the complainant receives such a designation from the Secretary of State or designee thereof, the complainant shall designate in writing to the Secretary of State or designee thereof the name of a second mediator. If the complainant fails to designate a mediator within the time allowed above, the sole mediator shall review the record from the hearing and make a final recommendation based on the submitted record. Not later than 3 business days after such a designation by the complainant, the two mediators so designated shall select a third mediator to complete the resolution panel. If the complainant fails to designate a mediator within the time allowed above, the sole mediator shall review and dispose of the matter without selecting a second or third mediator.

2. The mediator or resolution panel may review the record compiled in connection with the complaint, including, without limitation, the investigative file on the matter, the audio recording of the hearing, any transcript of the hearing and any briefs or memoranda submitted by the parties but shall not receive any additional testimony or evidence to resolve the matter.

3. The mediator or resolution panel by a majority vote, shall after reviewing the record referenced above, provide a recommendation to the Secretary of State not later than 50 days after the final determination of the Secretary of

State was due. This period for issuing a written recommendation will not be extended.

4. Upon receipt of the recommendation from the mediator or resolution panel, the Secretary of State or designee thereof shall issue a final order pursuant to the authority granted under O.C.G.A. 21-2-50.2(c), but such remedy shall not exceed the remedies available under Title III of the Help America Vote Act of 2002.

5. The final order of the Secretary of State or designee thereof will be:

   (i) Mailed to the complainant, each respondent and any other person who requested in writing to be advised of the final resolution;

   (ii) Posted on the website of the Secretary of State; and

   (iii) Made available by the Secretary of State, upon request by any interested person.

6. A final determination by the Secretary of State or designee thereof is not subject to appeal in any state or federal court.

Cite as Ga. Comp. R. & Regs. R. 590-8-2-.01
Authority: O.C.G.A. Secs. 21-2-1, 21-2-50.2.
History. Original Rule entitled "Administrative Complaint Procedure for Violations of Title III of the Help America Vote Act of 2002" adopted. F. May 11, 2004; eff. May 31, 2004.

Subject 590-8-3. SECURITY OF VOTER REGISTRATION SYSTEM.

Rule 590-8-3-.01. Standards for Security of Voter Registration System.

(a) Definitions:

(1) "User" means a state or county employee who was credentialed access to the Voter Registration Application.

(2) "Voter Registration Application" means the state maintained application used by county registrars to process voter registrations in Georgia in order to maintain a list of eligible and qualified voters. The Voter Registration Application does not include public-facing websites like My Voter Page or Online Voter Registration.

(3) "Voter Registration Database" means the state maintained data repository that houses the list of eligible and qualified voters entered into the Voter Registration Application.

(4) "Voter Registration System" means both the Voter Registration Application and the Voter Registration Database.

(b) Security of the Voter Registration System is vital to the administration of elections in Georgia. As such, the system shall be maintained in a manner that is consistent with the following security standards:

(1) Hardware/infrastructure assets utilized to host the Voter Registration Database shall be inventoried.

(2) Anti-malware software and endpoint protection with centralized reporting shall be utilized. Export files created from the Voter Registration System for use in other election systems shall be scanned with anti-malware software prior to distribution.

(3) All server patch requirements shall be reviewed in a timely fashion and needed patches shall be applied.

(4) The Voter Registration Application shall utilize trusted certificates for any public-facing websites.

(5) All remote connections to the Voter Registration Database shall use secure protocols.

(6) The Voter Registration Database shall utilize firewalls that shall be configured in a manner that blocks known malicious or suspicious traffic by default.

(7) The network hosting the Voter Registration Database shall be segmented in a manner that protects and isolates data.

(8) The network hosting the Voter Registration Database shall utilize intrusion detection systems such as MS-ISAC's Albert sensor.

(9) The network hosting the Voter Registration Database shall be regularly scanned to ensure only authorized devices are connected to the network. These scans should include both internal and external facing assets.

(10) The network hosting the Voter Registration Database shall be regularly scanned for vulnerabilities.

(11) Regular port scans shall be conducted to ensure that only required ports are open to the database.

(12) Server audit logs shall be securely archived for a period of no less than 60 days.

(13) Key system logs shall be reviewed on a regular basis in order to attempt to identify anomalies or abnormal events.

(14) The Voter Registration Database shall be securely backed up on at least a daily basis. Such backups shall be encrypted and securely stored for at least 60 days.

(15) Any potential cybersecurity incident or event detected in the Voter Registration System shall be handled in a manner that is consistent with the Secretary of State Incident Response Plan.

(16) A direct contact shall be kept on file for every network service provider and third-party vendor.

(17) The Voter Registration Database shall have a disaster recovery system.

(18) All Users of the Voter Registration Application shall complete regular cybersecurity training.

(19) All Users of the Voter Registration Application shall have unique User IDs.

(20) User credentials shall be encrypted or hashed.

(21) Multi-factor authentication shall be required for all Users of the Voter Registration Application.

(22) All Users of the Voter Registration Application are required to have strong passwords as defined by Secretary of State Information Technology standards.

(23) Users shall be automatically logged off the application after a period of inactivity.

(24) User accounts shall be regularly reviewed and disabled if inactive for more than 75 days.

(25) Access for any User shall be able to be immediately revoked.

(26) Administrative access shall be limited to the minimum number of required Users, and no administrative User shall be able to access the system with default credentials.

(27) No Secretary of State employee shall be a User of the Voter Registration Application unless he or she has passed a criminal background check.

(c) Assessments:

(1) The Secretary of State shall conduct or have conducted regular cybersecurity assessments of the Voter Registration System.

(2) Any vendor who has access to the Voter Registration System shall conduct regular assessments of the security of their network environment that interfaces with the Voter Registration System. The results of these assessments shall be provided to the Secretary of State upon request. The Secretary of State shall have the right to audit the network security of any vendor who has access to the Voter Registration System.

(d) Certification of Substantial Compliance:

(1) No later than December 31 of every calendar year, the Secretary of State shall certify that:

A. The Voter Registration System is being maintained in a manner consistent with the standards set forth in subsection (b) of this rule; and,

B. That the standards set forth in subsection (b) have been reviewed to ensure that they remain generally consistent with industry standards.

(2) The Secretary of State shall require vendors who have access to the Voter Registration System to certify to the Secretary that they are in substantial compliance with sections (b) and (c) of this rule and the Secretary may rely on that certification in issuing his or her own certification.

Cite as Ga. Comp. R. & Regs. R. 590-8-3-.01
Authority: O.C.G.A. §§ 45-13-20(14.1), 21-2-211.
History. Original Rule entitled "Standards for Security of Voter Registration System" adopted. F. July 24, 2019; eff. August 13, 2019.

Chapter 590-9. CHARITABLE SOLICITATION.

Subject 590-9-1. RULES OF GENERAL APPLICABILITY.

Rule 590-9-1-.01. Definitions.

(1) **Branch office.** As used herein, all references to "branch office" shall mean any commercial location where the business of a paid solicitor or charitable organization is conducted.

(2) **Certified financial statement.** As used herein, all references to "certified financial statement" shall mean financial statements, including a balance sheet, income statement, and statement of cash flows, or the equivalent in the case of a not-for-profit entity, and all notes to the financial statements, audited by an independent certified public accountant in accordance with generally accepted auditing standards. The certified financial statement

must be accompanied by an independent auditor's report, which shall include an expression of professional opinion by the independent certified public accountant as to whether the financial statement presents fairly, in all material respects, the financial condition of the entity in conformity with generally accepted accounting principles. The independent certified public accountant must be duly registered and in good standing as a certified public accountant, under all applicable laws, rules and regulations of the place of the independent certified public accountant's place of residence or principal place of business.

(3) **Code or Act.** As used herein, all citations to "Code" or "Act" refer to the Georgia Charitable Solicitations Act of 1988, as amended, as set forth in Chapter 17 of Title 43 of the Official Code of Georgia Annotated. (O.C.G.A. § 43-17-1*et seq.*)

(4) **Division.** As used herein, all references to "Division" shall mean the Division of Securities and Business Regulation of the Office of the Secretary of State. This is the organizational division that is delegated authority by the Secretary of State to administer the provisions of the Code.

(5) **Division Director.** As used herein, all references to the "Division Director" shall mean the Division Director appointed by the Secretary of State to oversee the administration of the Code as provided in O.C.G.A. § 43-17-10. The term "Division Director" shall refer to the Director of the Securities and Business Regulation Division of the Office of the Secretary of State, or such other person as the Secretary of State may by order designate.

(6) **Educational institutions.** As used in the Act, all references to "Educational institutions" shall mean an organization organized and operated exclusively for educational purposes and which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

(7) **Secretary of State.** As used herein, all references to the "Secretary of State" shall mean the Secretary of State of the State of Georgia.

Cite as Ga. Comp. R. & Regs. R. 590-9-1-.01
Authority: O.C.G.A. Sec. 43-17-10.
History. Original Rule entitled "Definitions" adopted as ER. 590-9-1-0.12-.01. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-1-.02. Delegation to Division Director.

The Division Director is empowered to sign all documents, make all decisions and perform all acts under the Code. This power may be exercised by the Division Director and all acts of the Division Director are of the same force and effect as such acts would be if performed by the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-9-1-.02
Authority: O.C.G.A. Sec. 43-17-10.
History. Original Rule entitled "Delegation to Deputy Secretary of State" adopted as ER. 590-9-1-0.12-.02. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Delegation to Division Director" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-1-.03. Administrative Declaratory Rulings; No-Action Letters; Informal Interpretations.

(1) **Declaratory Rulings.**

(a) **Availability.** Any person whose legal rights will be interfered with or impaired by the application of any statutory provision or any rule or order of the Secretary of State may petition the Secretary of State and request a declaratory ruling thereon. The Secretary of State will not render advisory opinions, resolve questions which have become moot or are abstract or hypothetical, or otherwise act hereunder except with respect to such actual controversies or other cases upon which a superior court would be required to act under the Georgia declaratory judgment statutes as construed by the appellate court of Georgia.

(b) **Form of Petition.** Each such petition shall be filed with the Secretary of State in writing and shall state:

1. the name and mailing address of the petitioner;

2. the full text of the statute, rule, or order upon which a ruling is requested;

3. a paragraphed statement of all pertinent and existing facts necessary to make a determination of the applicability of the quoted statute or rule;

4. the petitioner's contention, if any, as to the aforesaid applicability with citation of legal authorities, if any, which authorize, support, or require a decision in accordance therewith;

5. a statement setting forth in detail the petitioner's interest in the matter and why and how the petitioner is uncertain or insecure with respect to his/her rights. The petition shall be verified under oath by, or in proper behalf of, the petitioner.

(c) **Proceedings on Petition.** If the Secretary of State shall determine that a decision can be rendered on the face of the petition without further proceedings, a summary decision shall be rendered thereon. Otherwise, all parties known by the Secretary of State to have a legal interest in the matter shall be notified and given an opportunity to be heard in an informal hearing.

(2) **No-Action Letters.**

(a) **Availability.** Any person may request in writing a statement from the Division Director's staff that, on the basis of the facts stated in such written request, the staff would not recommend enforcement action. The Division Director's staff will not respond to requests related to unnamed companies or persons or to hypothetical situations.

(b) **Form of No-Action request.** Each such no-action request shall be filed with the Secretary of State in writing and shall:

1. State the specific subsection of the particular statute to which the request pertains;

2. Provide the names of the persons involved;

3. Limit the request to the particular situation involving the problem at hand and not attempt to include every possible type of situation which may arise in the future;

4. State concisely and to the point all of the facts necessary to reach a conclusion in the matter; and

5. Indicate why the requesting party thinks a problem exists, indicate the requesting party's opinion in the matter, and indicate the basis for the requesting party's opinion.

(3) **Informal Interpretations.** Any request presented in any manner other than in accordance with the provisions of paragraphs (1) or (2) above shall not be deemed to be filed as a petition for declaratory ruling or request for a no-action letter and shall be dealt with in any manner that the Secretary of State may deem appropriate.

Cite as Ga. Comp. R. & Regs. R. 590-9-1-.03
Authority: O.C.G.A. Secs. 43-17-10, 43-17-11.
History. Original Rule entitled "Administrative Declaratory Rulings; Information Interpretations" adopted as ER. 590-9-1-0.12-.03. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Administrative Declaratory Rulings; No-Action Letters; Informal Interpretations" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-1-.04. Petition for Adoption of Rules.

(1) **Form of petition.** Each petition for adoption of rules made pursuant to the Georgia Administrative Procedure Act shall be filed with the Secretary of State in writing and shall state:

(a) The name and post office address of the petitioner;

(b) The full text of the rule requested to be amended or repealed, or the full text of the rule desired to be promulgated;

(c) A paragraphed statement of the reason such rule should be amended, repealed or promulgated, including a statement of all pertinent existing facts as to petitioner's interest in the matter;

(d) Citations of legal authorities, if any, which authorize, support, or require the action requested by petitioner. The petition should be verified under oath by, or in proper behalf of, the petitioner.

(2) **Proceeding on petition.** Upon receipt of the petition, the Secretary of State shall decide upon the action to be taken. Within sixty (60) days after receipt of the petition, the Secretary of State shall inform the petitioner by mail of the decision reached and shall either decline to take the action requested, stating the reasons for so declining, or shall initiate rule-making or rule-changing proceedings in accordance with the Georgia Administrative Procedure Act.

Cite as Ga. Comp. R. & Regs. R. 590-9-1-.04
Authority: O.C.G.A. Sec. 43-17-10.
History. Original Rule entitled "Petition for Adoption of Rules" adopted as ER. 590-9-1-0.12-.04. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-1-.05. Contested Cases.

Contested cases shall be heard by the Secretary of State or the Division Director or any person authorized by law pursuant to the Code and/or Georgia Administrative Procedure Act and shall be conducted in accordance with the procedures provided therein and the following procedures:

(a) **Initiating a contested case.** Any person who is legally entitled to contest a ruling or order of the Secretary of State may do so by filing with the Secretary of State a request for hearing which shall contain the following:

1. a title which indicates the nature of the proceedings;

2. the complete name and address of the person or persons on whose behalf the request is filed;

3. the name and address of all other persons known to have a legal interest in the proceedings;

4. if the person or persons on whose behalf the request is filed are represented by counsel, the name and address of counsel;

5. a clear and concise statement of the facts upon which the contested case arises;

6. a prayer setting forth the relief sought;

7. a statement of the grounds upon which the person contends he is entitled to the relief sought.

(b) **Request for hearing.** To be entitled to a hearing as a matter of right, a person must, within ten (10) days of delivery of a notice of opportunity for hearing file with the Secretary of State a request for hearing as described in paragraph (a) above. At the discretion of the Secretary of State, extensions of time and amendments to requests may be allowed.

(c) **Responses to requests for hearing.** The Secretary of State will respond to all requests for hearings with a notice scheduling a hearing or with an order denying the request for hearing and stating the reasons for the denial.

(d) **Motions.** Any application to the Secretary of State to enter any order or to take any action after the filing of a request for hearing shall be by motion, which, unless made during a hearing, shall be made in writing, shall state specifically the grounds therefore, and shall set forth the action or order sought. No motions shall be ruled upon except when the case in chief is ruled upon unless the moving party specifically requests a ruling at some other time and the Secretary of State deems such ruling appropriate.

(e) **Informal conferences.**

1. A party who requests a hearing as provided in (a) above will be accorded a formal hearing pursuant to the Georgia Administrative Procedure Act. If a party desires, he may request an informal conference with the Secretary of State or a representative In lieu of or prior to a formal hearing.

2. The receipt by the Secretary of State of a written request for an informal conference will toll, until the date that such conference is scheduled by the Secretary of State, the running of the times for requesting and setting hearings. In determining the number of days which have run, neither the day on which the request for informal conference is received by the Secretary of State nor the day on which the conference is scheduled shall be counted.

(f) Any request for conference or hearing which is not in the form specified in paragraph (a) above and does not specifically request a formal hearing will be deemed a request for informal conference and shall be acted on as such.

Cite as Ga. Comp. R. & Regs. R. 590-9-1-.05
Authority: O.C.G.A. Secs. 43-17-10, 43-17-16.
History. Original Rule entitled "Contested Cases" adopted as ER. 590-9-1-0.12-.05. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-1-.06. Records.

(1) All applications, records, correspondence, annual reports, and other documents filed with the Secretary of State pursuant to the various provisions of the Code may be maintained in original form or by means of microfilm, microfiche, microphotographic reproduction, photographic reproduction, word processing, computerization, or other methods acceptable to the Secretary of State.

(2) All records, correspondence, annual reports, or other documents produced pursuant to a subpoena *duces tecum* issued by the Secretary of State may be destroyed by order of the Secretary of State if a demand for return is not made by the person producing such records within three (3) years from the time the investigative file is closed.

(3) Any photographic, microphotographic, or computer reproduction of any original writing or record filed with or maintained by the Secretary of State shall be deemed to have been made in the regular course of business.

Cite as Ga. Comp. R. & Regs. R. 590-9-1-.06
Authority: O.C.G.A. Secs. 43-17-10.
History. Original Rule entitled "Records" adopted as ER. 590-9-1-0.12-.06. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-1-.07. Confidentiality of Investigations.

All investigations and investigative proceedings shall be private, unless the Secretary of State determines that the protection of the public requires that all or part of an investigation or investigative proceeding be made public.

Cite as Ga. Comp. R. & Regs. R. 590-9-1-.07
Authority: O.C.G.A. Sec. 43-17-10.
History. Original Rule entitled "Confidentiality of Investigations" adopted as ER. 590-9-1-0.12-.07. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-1-.08. Non-payment of Statutory Fees or Administrative Penalties.

(1) Every registration, annual report, filing, or administrative penalty required or imposed pursuant to the Code or any Rule or Regulation promulgated thereunder shall be accompanied by the required fee. No registration, annual report, filing or administrative penalty required pursuant to the Code or any Rule shall be considered officially received by the Secretary of State without the required fee.

(2) If a check submitted in payment of a fee is dishonored, the Secretary of State shall promptly notify the applicant, registrant or filer of the dishonor. The applicant, registrant or filer shall have fifteen (15) days from the date of notice to pay the required fee. If such payment is not made, the Secretary of State may take any action authorized by the Act.

(3) All fees are nonrefundable.

Cite as Ga. Comp. R. & Regs. R. 590-9-1-.08
Authority: O.C.G.A. Sec. 43-17-10.
History. Original Rule entitled "Non-Payment of Statutory Fees or Fines" adopted as ER. 590-9-1-0.12-.08. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Non-Payment of Statutory Fees or Administrative Penalties" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-1-.09. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-9-1-.09
Authority: O.C.G.A. Sec. 43-17-10.
History. Original Rule entitled "Proceedings Under O.C.G.A. Sections 43-17-7 and 43-17-16" adopted as ER. 590-9-1-0.12-.09. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: F. Feb. 26, 2004; eff. Mar. 17, 2004.

Subject 590-9-2. PAID SOLICITORS.

Rule 590-9-2-.01. Prerequisites for Registration.

(1) **General Prerequisites.** To be registered as a paid solicitor, a person must, in addition to the requirements set forth in Sections 43-17-3 and 43-17-4 of the Act, meet the following:

(a) Every paid solicitor that maintains a branch office in Georgia shall designate a resident supervisor for each branch.

(b) Each branch office of a paid solicitor must be properly identified as an office of said paid solicitor.

(2) **Consent to Service of Process.** To be registered as a paid solicitor, an applicant must execute a consent to service of process which shall include:

(a) the name and title of the officer authorized to execute the consent;

(b) signature of the officer; and

(c) notorization by an official witness.

(3) Registration Procedure. The applicant shall make application by completing and filing a Form S100 and promptly furnish any additional information requested by the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-9-2-.01
Authority: O.C.G.A. Secs. 43-17-3, 43-17-10.
History. Original Rule entitled "Qualifications for Registration" adopted as ER. 590-9-2-0.13-.01. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Prerequisites for Registration" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-2-.02. Amendments to Registration.

Registration amendments required to be filed by O.C.G.A. § 43-17-3(c)(7) shall be made on Form S100.

Cite as Ga. Comp. R. & Regs. R. 590-9-2-.02
Authority: O.C.G.A. Secs. 43-17-3, 43-17-10.
History. Original Rule entitled "Financial Statement" adopted as ER. 590-9-2-0.13-.02. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Amendments to Registration" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-2-.03. Records of Paid Solicitors.

(1) Business records. The paid solicitor shall prepare, maintain and make available, when requested, to the Secretary of State for inspection the following business records:

(a) All checkbooks, bank statements, cancelled checks and cash reconciliations relating to the business of the paid solicitor;

(b) All bills receivable or payable (or copies thereof), paid or unpaid, relating to the business of the paid solicitor;

(c) Originals of all communications received and copies of all communications sent by such paid solicitor (including interoffice memoranda and communications) relating to the business of the paid solicitor;

(d) All trial balances, financial statements, branch office reconciliations and internal audit working papers relating to the business of the paid solicitor;

(e) All guarantees of accounts and all powers of attorney and other evidence of the granting of any discretionary authority given in respect of any accounts, and copies of resolutions empowering an agent to act on behalf of a corporation; and

(f) All written agreements (or copies thereof) entered into by a paid solicitor relating to its business including agreements with respect to any account.

(2) Every paid solicitor shall preserve during the life of the enterprise and of any successor enterprise all partnership articles or, in the case of a corporation, all articles of incorporation or charter, minute books, and stock certificate books.

Cite as Ga. Comp. R. & Regs. R. 590-9-2-.03
Authority: O.C.G.A. Secs. 43-17-3, 43-17-4, 43-17-10.
History. Original Rule entitled "Surety Bond" adopted as ER. 590-9-2-0.13-.03. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Records of Paid Solicitors" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-2-.04. Renewal Applications.

Renewal applications or supplemental information for the preceding year filed after December 31st of each year may be rejected by the Secretary of State, and all applications filed or completed after that date may be required to be in the form of an initial registration application, accompanied by the payment of all fees incident to an initial registration.

Cite as Ga. Comp. R. & Regs. R. 590-9-2-.04
Authority: O.C.G.A. Secs. 43-17-3, 43-17-10.
History. Original Rule entitled "Records of Paid Solicitors" adopted as ER. 590-9-2-0.13-.04. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Renewal Applications" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-2-.05. Determination of Filing Date; Abandonment of Application.

(1) Determination of Filing Date. An application for registration as a paid solicitor submitted pursuant to O.C.G.A. § 43-17-3 is considered filed when a completed application on Form S100 and required filing fees are received by the Secretary of State.

(2) Abandoned Applications. When an application is deficient, the Secretary of State may send a letter stating the grounds for the deficiency to the applicant. If no communication from the applicant is received by the Secretary of State for a period of sixty (60) days, the

Secretary of State may issue a notice of opportunity for hearing, pursuant to the Act, stating the Secretary of State proposes to issue an order dismissing the application without prejudice.

Cite as Ga. Comp. R. & Regs. R. 590-9-2-.05
Authority: O.C.G.A. Secs. 43-17-3, 43-17-10.
History. Original Rule entitled "Reports" adopted as ER. 590-9-2-0.13-.05. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Determination of Filing Date; Abandonment of Application" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-2-.06. Reporting of Occurrences.

(1) Every paid solicitor shall report immediately to the Secretary of State the occurrence of any of the following events:

(a) any instance in which such paid solicitor is unable to meet a financial obligation as it matures; or

(b) the occurrence of any event which materially increases the probability that the paid solicitor will be unable to meet its obligations as they mature.

(2) the report provided for in (1) above shall be accomplished by the most accurate statement of financial conditions which is currently available to such paid solicitor which shall be supplemented, as soon as possible, by a report containing the financial information required by the Act and such additional information as may be required by the Secretary of State.

(3) Every paid solicitor shall immediately report to the Secretary of State the occurrence of any of the following:

(a) the initiation of any disciplinary, administrative, civil or criminal action against such paid solicitor or any principal officer or control person of any paid solicitor by any national organization of paid solicitors, or any state or federal agency; or

(b) the receipt of service of process in any civil complaint alleging fraud or any violation of any state or federal law filed against such paid solicitor or any principal officer or control person of any paid solicitor if such civil action involves any of the following:

1. plaintiffs who were residents of the State of Georgia at the time of the alleged violations;

2. alleged violations which occurred within or from the State of Georgia;

3. a civil action filed in a state or federal court located in the State of Georgia; or

4. a civil action which has a material connection with a person or property located in the State of Georgia.

(4) The report provided for in (3) above shall be accompanied by a copy of any notice, order, pleading, indictment, accusation, or similar legal document which such paid solicitor has received in the case.

Cite as Ga. Comp. R. & Regs. R. 590-9-2-.06
Authority: O.C.G.A. Secs. 43-17-3, 43-17-10.
History. Original Rule entitled "Supervision of Employees" adopted as ER. 590-9-2-0.13-.06. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Reporting of Occurrences" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-2-.07. Supervision of Employees.

(1) Every paid solicitor registered or required to be registered under the Act shall exercise diligent supervision over the charitable solicitation activities of all of its employees.

(a) Each employee shall be subject to the supervision of a designated supervisor.

(b) Written procedures, a copy of which shall be kept in each branch office, shall be established, maintained, and enforced and shall set forth the standards and procedures adopted to comply with the requirements imposed by the Act and the Rules and Regulations promulgated thereunder, including but not limited to the following:

1. administrative review and written approval of all solicitation material;

2. periodic examination of solicitation methods to detect and prevent irregularities or abuse;

3. prompt administrative review of all complaints; and

4. prompt administrative review of correspondence pertaining to the solicitation of contributions.

(c) Each branch office location shall be periodically inspected by the paid solicitor to assure that the written procedures are enforced.

(d) It shall be the responsibility of each paid solicitor and its supervisors to ensure that all employees of such paid solicitor are properly registered with the Secretary of State and trained regarding the disclosure requirements and the administrative, civil and criminal liability provisions of the Act.

Cite as Ga. Comp. R. & Regs. R. 590-9-2-.07
Authority: O.C.G.A. Secs. 43-17-3, 43-17-10.
History. Original Rule entitled "Incomplete and Abandoned Applications" adopted as ER. 590-9-2-0.13-.07. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Supervision of Employees" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-2-.08. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-9-2-.08
Authority: O.C.G.A. Sec. 43-17-10.
History. Original Rule entitled "Renewal Applications" adopted as ER. 590-9-2-0.13-.08. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-2-.09. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-9-2-.09
Authority: O.C.G.A. Sec. 43-17-10.
History. Original Rule entitled "Effective Date of Registration of Paid Solicitors" adopted as ER. 590-9-2-0.18-.09. F. and eff. July 6, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: F. Feb. 26, 2004; eff. Mar. 17, 2004.

Subject 590-9-3. SOLICITOR AGENTS.

Rule 590-9-3-.01. Prerequisites for Registration.

General Prerequisites. To be registered as a solicitor agent, an applicant must, in addition to the requirements set forth in Section 43-17-3.1 of the Act, make application by completing and filing Form SA1 and promptly furnish any additional information requested by the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-9-3-.01
Authority: O.C.G.A. Secs. 43-17-3.1, 43-17-5, 43-17-10.
History. Original Rule entitled "Qualifications for Registration" adopted as ER. 590-9-3-0.14-.01. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Prerequisites for Registration" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-3-.02. Amendments to Registration.

(1) Registration amendments, other than termination of employment, required to be filed by Section 43-17-3.1(b)(6) of the Act shall be made on Form SA1.

(2) Termination of employment with the paid solicitor shall be reported to the Secretary of State by the paid solicitor on Form S2A.

Cite as Ga. Comp. R. & Regs. R. 590-9-3-.02
Authority: O.C.G.A. Secs. 43-17-3.1, 43-17-5, 43-17-10.
History. Original Rule entitled "Subsequent Developments Material to an Effective Registration Statement" adopted as ER. 590-9-3-0.14-.02. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Amendments to Registration" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-3-.03. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-9-3-.03
Authority: O.C.G.A. Secs. 43-17-5, 43-17-10.
History. Original Rule entitled "Charitable Organizations Renewal" adopted as ER. 590-9-3-0.14-.03. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-3-.04. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-9-3-.04
Authority: O.C.G.A. Secs. 43-17-5, 43-17-10.
History. Original Rule entitled "Financial Statement" adopted as ER. 590-9-3-0.14-.04. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-3-.05. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-9-3-.05
Authority: O.C.G.A. Secs. 43-17-5, 43-17-6, 43-17-10.
History. Original Rule entitled "Records to Be Made and Maintained by Charitable Organizations" adopted as ER. 590-9-3-0.14-.05. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-3-.06. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-9-3-.06
Authority: O.C.G.A. Secs. 43-17-5, 43-17-10.
History. Original Rule entitled "Determination of Filing Date; Abandonment of Applications" adopted as ER. 590-9-3-0.14-.06. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-3-.07. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-9-3-.07
Authority: O.C.G.A. Sec. 43-17-10.
History. Original Rule entitled "Effective Date of Registration of Charitable Organization" adopted as ER. 590-9-3-0.19-.07. F. and eff. July 6, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: F. Feb. 26, 2004; eff. Mar. 17, 2004.

Subject 590-9-4. REGISTRATION OF CHARITABLE ORGANIZATIONS.

Rule 590-9-4-.01. Prerequisites for Registration.

(1) General prerequisites. A charitable organization which intends to solicit or have contributions solicited in this state on its behalf shall, prior to any solicitation, file an effective registration statement with the Secretary of State on Form C100 or the Uniform Registration Statement and comply with the requirements of O.C.G.A. § 43-17-5.

(2) Consent to Service of Process. To be registered as a charitable organization, an applicant must execute a consent to service of process on Form C100 provided by the Secretary of State and shall include the name of the authorized official.

Cite as Ga. Comp. R. & Regs. R. 590-9-4-.01
Authority: O.C.G.A. §§ 43-17-5, 43-17-10.
History. Original Rule entitled "Untrue and Misleading Statements Prohibited" adopted as ER. 590-9-4-0.15-.01. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Prerequisites for Registration" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.
Amended: F. Jan. 11, 2017; eff. Jan. 31, 2017.

Rule 590-9-4-.02. Amendments to Registration.

Registration amendments required to be filed by O.C.G.A. § 43-17-5(b)(10) shall be made on Form C100.

Cite as Ga. Comp. R. & Regs. R. 590-9-4-.02
Authority: O.C.G.A. Secs. 43-17-5, 43-17-10, 43-17-12.
History. Original Rule entitled "Misrepresentations and Omissions Prohibited" adopted as ER. 590-9-4-0.15-.02. F. and eff. July 1, 1988, the date of adoption.

Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Amendments to Registration" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-4-.03. Records to Be Made and Maintained by Charitable Organizations.

A charitable organization shall maintain, for a period of not less than three years, records of all correspondence and memoranda concerning all contributions over $25.00 received from any one person or organization.

Cite as Ga. Comp. R. & Regs. R. 590-9-4-.03
Authority: O.C.G.A. Secs. 43-17-5, 43-17-6, 43-17-10.
History. Original Rule entitled "Records to Be Made and Maintained by Charitable Organizations" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-4-.04. Charitable Organizations Renewal.

(1) Each application for renewal may be filed at any time within ninety (90) days prior to the expiration of the registration statement.

(2) A renewal application received within thirty (30) days of the expiration date will be processed without penalty. A renewal application received more than thirty (30) days after the expiration date may be subject to the original filing fee and the completion and filing of a new Form C100 and all attachments.

Cite as Ga. Comp. R. & Regs. R. 590-9-4-.04
Authority: O.C.G.A. Secs. 43-17-5, 43-17-10.
History. Original Rule entitled "Charitable Organizations Renewal" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-4-.05. Determination of Filing Date; Abandonment of Applications.

(1) Determination of Filing Date. A registration statement required by O.C.G.A. § 43-17-5 is considered filed when the completed application on Form C100 or the Unified Registration Statement and required filing fees are received by the Secretary of State.

(2) Abandoned Applications. When a registration is deficient, the Secretary of State may send a letter stating the grounds for the deficiency to the applicant. If no communication is received by the Secretary of State for a period of sixty (60) days, the application will be deemed to have been abandoned and the Secretary of State may issue a notice of opportunity for hearing pursuant the Act, stating that the Secretary of State proposes to issue an order dismissing the application without prejudice.

Cite as Ga. Comp. R. & Regs. R. 590-9-4-.05
Authority: O.C.G.A. Secs. 43-17-5, 43-17-10.
History. Original Rule entitled "Determination of Filing Date; Abandonment of Applications" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-4-.06. Financial Statement.

For the purposes of O.C.G.A § 43-17-5,"received or collected" is not deemed to include interest, dividends or other income derived from the investment of charitable funds.

Cite as Ga. Comp. R. & Regs. R. 590-9-4-.06
Authority: O.C.G.A. Secs. 43-17-5, 43-17-10.
History. Original Rule entitled "Financial Statement" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-4-.07. Forms for Charitable Organization Registration.

For the purposes of O.C.G.A. § 43-17-5, charitable organizations that did not file a Form 990 or Form 990-EZ with the United States Internal Revenue Service shall file a C200 with the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 590-9-4-.07
Authority: O.C.G.A. Secs. 43-17-5, 43-17-10.
History. Original Rule entitled "Forms for Charitable Organization Registration" adopted. F. Dec. 8, 2015; eff. Dec. 28, 2015.

Subject 590-9-5. PROHIBITED ACTS.

Rule 590-9-5-.01. Untrue and Misleading Statements Prohibited; Misrepresentations and Omissions Prohibited.

(1) No person shall, in connection with any proceeding under the Georgia Charitable Solicitations Act of 1988, make or cause to be made to the Secretary of State or anyone acting in his behalf, any written or oral statement which the person knows to contain any untrue statement of material fact or omits to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

(2) No person shall file, execute or sign any application or registration or document prepared for inclusion in an application of registration under the Georgia Charitable Solicitations Act of 1988 which the person knows or in the exercise of reasonable diligence could know, contains any untrue statement of material fact or omits to state a material fact necessary to make the statements made, in light of the circumstances in which they were made, not misleading.

(3) No person shall, in connection with the planning, conduct, or execution of any charitable solicitation or charitable sales promotion, directly or indirectly make an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

Cite as Ga. Comp. R. & Regs. R. 590-9-5-.01
Authority: O.C.G.A. Secs. 43-17-9, 43-17-10, 43-17-12.
History. Original Rule entitled "Multi-Level Organizations" adopted as ER. 590-9-5-0.16-.01. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Untrue and Misleading Statements Prohibited; Misrepresentations and Omissions Prohibited" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-5-.02. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-9-5-.02
Authority: O.C.G.A. Secs. 43-17-9, 43-17-10.
History. Original Rule entitled "$15,000 Exemption" adopted as ER. 590-9-5-0.16-.02. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-5-.03. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-9-5-.03
Authority: O.C.G.A. Secs. 43-17-9, 43-17-10.
History. Original Rule entitled "Educational Organizations" adopted as ER. 590-9-5-0.16-.03. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-5-.04. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-9-5-.04
Authority: O.C.G.A. Secs. 43-17-9, 43-17-10.
History. Original Rule entitled "County Solicitations" adopted as ER. 590-9-5-0.16-.04. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-5-.05. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-9-5-.05
Authority: O.C.G.A. Secs. 43-17-9, 43-17-10.
History. Original Rule entitled "Organizations Associated With Governmental Entities" adopted as ER. 590-9-5-

0.16-.05. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-5-.06. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-9-5-.06
Authority: O.C.G.A. Secs. 43-17-9, 43-17-10.
History. Original Rule entitled "Publisher's Exemption" adopted as ER. 590-9-5-0.16-.06. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-5-.07. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-9-5-.07
Authority: O.C.G.A. Secs. 43-17-9, 43-17-10.
History. Original Rule entitled "Exemption by Order" adopted as ER. 590-9-5-0.16-.07. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-5-.08. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-9-5-.08
Authority: O.C.G.A. Secs. 43-17-10, 43-17-12.
History. Original Rule entitled "Applicability of Anti-Fraud Provisions" adopted as ER. 590-9-5-0.16-.08. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: F. Feb. 26, 2004; eff. Mar. 17, 2004.

Subject 590-9-6. EXEMPTIONS FROM REGISTRATION.

Rule 590-9-6-.01. Multi-Level Organizations.

(1) National registration exemption. If a national organization is registered with the Secretary of State as a charitable organization, state and local affiliates of the national organization are not required to register separately with the Secretary of State.

(a) Financial and other reports relating to charitable contributions and solicitations required of the national entity shall be filed on a consolidated basis for the entire organization.

(b) Financial and other records relating to charitable contributions and solicitations of state and local affiliates which rely on this exemption shall be available to the Secretary of State for reasonable inspection.

(2) Local registration exemption. If all local organizations are registered with the Secretary of State as charitable organizations, state and national affiliates which do not directly solicit contributions in this state are not required to register separately with the Secretary of State. Financial and other records of state and national organizations which rely on this exemption shall be available to the Secretary of State for reasonable inspection.

(3) Local organizations which receive funds from a state or national organization registered with the Secretary of State as a charitable organization, and which do not directly solicit funds on their own, are not required to register as a charitable organization.

Cite as Ga. Comp. R. & Regs. R. 590-9-6-.01
Authority: O.C.G.A. Secs. 43-17-9, 43-17-10.
History. Original Rule entitled "Certificates" adopted as ER. 590-9-6-0.17-.01. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Multi-Level Organizations" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-6-.02. Reserved.

Cite as Ga. Comp. R. & Regs. R. 590-9-6-.02
Authority: O.C.G.A. Sec. 43-17-10.
History. Original Rule entitled "Requests for Information" adopted as ER. 590-9-6-0.17-.02. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: Rule reserved. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-6-.03. Organizations Associated With Governmental Entities.

A public instrumentality of a state or federal government is not required to register with the Secretary of State as a charitable organization. This exemption shall apply to advertising and royalty contracts for publications which result in a charitable contribution to the public government instrumentality, so long as such sales and solicitations are not made for the purpose of evading provisions of this Act.

Cite as Ga. Comp. R. & Regs. R. 590-9-6-.03
Authority: O.C.G.A. Secs. 43-17-9, 43-17-10.
History. Original Rule entitled "Payment of Charges" adopted as ER. 590-9-6-0.17-.03. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Organizations Associated With Governmental Entities" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-6-.04. Publisher's Exemption.

A person regularly engaged as a bona fide publisher, and not for the purpose of evading this Act, of a commercial newspaper, magazine or other publication, and who solicits advertisements and provides a percentage or fixed amount to a charitable organization, is not required to register with the Secretary of State as a paid solicitor or charitable organization.

Cite as Ga. Comp. R. & Regs. R. 590-9-6-.04
Authority: O.C.G.A. Secs. 43-17-9, 43-17-10.
History. Original Rule entitled "Certificate of (Long Form Certificate)" adopted as ER. 590-9-6-0.17-.04. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Publisher's Exemption" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-6-.05. Applicability of Anti-Fraud Provisions.

Any exemption from the registration provisions of the Act shall not exempt the charitable organization from the anti-fraud provisions of O.C.G.A. § 43-17-12 or any successor Charitable Solicitations Act.

Cite as Ga. Comp. R. & Regs. R. 590-9-6-.05
Authority: O.C.G.A. Secs. 43-17-10, 43-17-12.
History. Original Rule entitled "Forms of Certificates" adopted as ER. 590-9-6-0.17-.05. F. and eff. July 1, 1988, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Oct. 7, 1988; eff. Nov. 1, 1988, as specified by the Agency.
Repealed: New Rule entitled "Applicability of Anti-Fraud Provisions" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Subject 590-9-7. CERTIFICATION OF DOCUMENTS.

Rule 590-9-7-.01. Certificates.

(1) The Secretary of State shall provide certified copies of any public record relating to a charitable organization, paid solicitor, or solicitor agent as available on the automated database, microfilm files or other records maintained by the Secretary of State.

(2) The Secretary of State is authorized to establish and impose minimum fees for the production and mailing of requested documents, provided, however, that those fees do not exceed the limits set by OCGA § 50-18-71(a).

(3) The Secretary of State shall publish and maintain a schedule of all fees and charges for documents and services provided. Service charges may only be changed by the posting by the Secretary of State of such changes in the public access area of the Division offices for a minimum of thirty (30) days prior to such changes being effective.

(4) Expedited processing certificates may be obtained by submitting a written request explaining why such expedited processing is necessary and appropriate. The request for expedited processing must be accompanied by the payment of the fee published in the fee schedule maintained by the Secretary of State. In the event expedited service is authorized, the documents, if available, and the certificate will be prepared and furnished immediately to the person making such request.

Cite as Ga. Comp. R. & Regs. R. 590-9-7-.01
Authority: O.C.G.A. Sec. 43-17-10.
History. Original Rule entitled "Certificates" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-7-.02. Requets for Information.

(1) The person making the request will be informed whether the requested documents are available based on the information contained in the automated database.

(2) If the documents appear to be available, the person making the request may place an order to have the documents prepared.

(3) The request will be reviewed to determine if copies and certificates can be prepared, based on information contained in the automated database, the microfilm files, and the other records maintained by the Secretary of State.

(4) After review, the request will be processed, and the documents and an invoice of charges will be forwarded to the person placing the order.

(5) The Secretary of State may provide for requesting documents and certificates by means of direct electronic input. The use of direct electronic input shall be accomplished in accordance with standards and procedures published by the Secretary of State for such purpose. The Secretary of State may establish minimum fees for such requests and provide for electronic funds transfer for the payment of such fees.

Cite as Ga. Comp. R. & Regs. R. 590-9-7-.02
Authority: O.C.G.A. Sec. 43-17-10.
History. Original Rule entitled "Requests for Information" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-7-.03. Payment of Charges.

All invoices for certificates and copies are due immediately upon receipt. Failure to pay the invoice may result in the invoice being referred for collection.

Cite as Ga. Comp. R. & Regs. R. 590-9-7-.03
Authority: O.C.G.A. Sec. 43-17-10.

History. Original Rule entitled "Payment of Charges" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Rule 590-9-7-.04. Forms of Certificates.

The Secretary of State shall provide the following certificates. Charges for such certificates and services shall be those published in the fee schedule maintained by the Secretary of State. Said forms may be requested in written form, electronic form or by telephonic means:

(a) Certificate of Compliance. This document certifies that the registrant is properly registered and such certificate will be promptly mailed to the person requesting the certificate. Pickup service is not available unless expedited processing is requested and approved.

(b) Certificate of Search. This document certifies that the Secretary of State can find no record of the registrant and such certificate will be promptly mailed to the person requesting the certificate. Pickup service is not available unless expedited processing is requested and approved.

(c) Certificate of Noncompliance. This certificate sets forth the fact of noncompliance by the registrant with the filing requirements of the Act and such certificate will be promptly mailed to the person requesting the certificate. Pickup service is not available unless expedited processing is requested and approved.

(d) Certified Copies of other documents. This document certifies documents filed with the Secretary of State and such certificate will be promptly mailed to the person requesting the certificate. Pickup service is not available unless expedited processing is requested and approved. Expedited service may only be available if the registrant's documents are on file in the Division. If documents have been transferred to the State Records Center, additional time will be necessary to retrieve the documents for processing.

(e) Special research request. Special certificates (long form) will be prepared and issued if a detailed request is made to the Secretary of State in writing. The staff will not interpret legal documents but will provide certificates of filings, names and dates. Pickup service is not available unless expedited processing is requested and approved.

Cite as Ga. Comp. R. & Regs. R. 590-9-7-.04
Authority: O.C.G.A. Sec. 43-17-10.
History. Original Rule entitled "Forms of Certificates" adopted. F. Feb. 26, 2004; eff. Mar. 17, 2004.

Chapter 590-10. REPEALED.

Subject 590-10-2. REPEALED.

Rule 590-10-2-.01. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-10-2-.01
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Purpose" adopted. F. May 30, 1996; eff. June 19, 1996.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-10-2-.02. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-10-2-.02
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Definitions" adopted. F. May 30, 1996; eff. June 19, 1996.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-10-2-.03. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-10-2-.03
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Organization" adopted. F. May 30, 1996; eff. June 19, 1996.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-10-2-.04. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-10-2-.04
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Administration" adopted. F. May 30, 1996; eff. June 19, 1996.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-10-2-.05. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-10-2-.05
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Grants" adopted. F. May 30, 1996; eff. June 19, 1996.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-10-2-.06. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-10-2-.06
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Contracts" adopted. F. May 30, 1996; eff. June 19, 1996.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-10-2-.07. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-10-2-.07
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Rule entitled "Conflict of Interest" adopted. F. May 30, 1996; eff. June 19, 1996.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Subject 590-10-3. REPEALED.

Rule 590-10-3-.01. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-10-3-.01
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Grant description entitled "Local Government Grant Program" submitted Apr. 11, 1996.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-10-3-.02. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-10-3-.02
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original grant description entitled "Historical Repositories Grant Program" submitted Sept. 17, 1998.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Rule 590-10-3-.03. Repealed.

Cite as Ga. Comp. R. & Regs. R. 590-10-3-.03
Authority: Ga. L. 2013, p. 594, § 2-3/HB 287.
History. Original Grant description entitled "Historical Records Grant Program" submitted June 6, 2000.
Repealed: F. June 4, 2018; eff. June 24, 2018.

Chapter 590-11. MUSIC THERAPY.

Subject 590-11-1. MUSIC THERAPY.

Rule 590-11-1-.01. Application for Licensure.

(1) Applicants for licensure as a music therapist must submit the following:

(a) a completed application, on the appropriate form, accompanied by the required fee;

(b) completed information and forms needed to submit the results of a fingerprint background check as required by O.C.G.A. § 43-25A-5(6);

(c) transcripts showing evidence of a bachelor's degree or higher in music therapy, or its equivalent, from a program approved by the American Music Therapy Association or any successor organization within an accredited college or university;

(d) evidence of completion of a minimum of 1,200 hours of clinical training, with at least 180 hours in preinternship experiences and at least 900 hours in internship experiences approved by an academic institution, the American Music Therapy Association or any successor organization;

(e) Secure and verifiable documentation of United States citizenship or lawful presence in the United States as required by Georgia law;

(f) evidence of one of the following:

1. passing scores for the examination for board certification offered by the Certification Board for Music Therapists or any successor organization and evidence of current certification by the Certification Board for Music Therapists or any successor organization; or

2. proof of being transitioned into board certification and evidence of current certification by the Certification Board for Music Therapists or any successor organization; and

(g) any additional information requested by the Secretary of State to establish eligibility.

(2) An application is active for one year, after which a new application and fee are required.

Cite as Ga. Comp. R. & Regs. R. 590-11-1-.01
Authority: O.C.G.A. §§ 50-13-3, 43-25A-1, 43-25A-5, 43-25A-8.
History. Original Rule entitled "Application for Licensure" adopted. F. Feb. 10, 2016; eff. Mar. 1, 2016.

Rule 590-11-1-.02. Licensure Renewal.

(1) Licenses shall expire on March 31 of even years. Completed license renewal applications, accompanied by the appropriate fee and any other required documentation shall be submitted by the posted deadline.

(2) Licensees must submit evidence of completion of forty (40) hours of continuing education.

(3) License renewal applications submitted or postmarked after the renewal deadline will be void and the licensee will be forfeited.

Cite as Ga. Comp. R. & Regs. R. 590-11-1-.02
Authority: O.C.G.A. §§ 50-13-3, 43-25A-1, 43-25A-6.
History. Original Rule entitled "Licensure Renewal" adopted. F. Feb. 10, 2016; eff. Mar. 1, 2016.

Rule 590-11-1-.03. Restoration of Licensure.

(1) Licensees with an expired license may submit an application for restoration of licensure within one (1) year following the expiration date of the license.

(2) Licensees on inactive status may restore a license within two (2) years of placing the license on inactive status.

(3) Applicants for restoration of licensure as a music therapist must submit the following:

(a) a completed application, on the appropriate form, accompanied by the required fee or fees;

(b) completed information and forms needed to submit the results of a fingerprint record check as required by O.C.G.A. § 43-25A-5(6);

(c) evidence of current certification by the Certification Board for Music Therapists or any successor organization;

(d) evidence of continuing education;

(e) Secure and verifiable documentation of United States citizenship or lawful presence in the United States as required by Georgia law; and

(f) any additional information requested by the Secretary of State to establish eligibility.

(4) Applicants who are restoring a license that has been lapsed must submit evidence of completion of forty (40) hours of continuing education.

(5) Applicants who are restoring a license that has been inactive for one (1) year or less must submit evidence of completion of twenty (20) hours of continuing education. Applicants who are restoring a license that has been inactive for more than one (1) year but not more than two (2) years must submit evidence of completion of forty (40) hours of continuing education.

(6) An application for restoration of a license is active for one (1) year.

(7) A person who has a license that has been expired for more than a year or who has a license on inactive status for more than two years must apply as a new applicant and meet all existing requirements for licensure.

Cite as Ga. Comp. R. & Regs. R. 590-11-1-.03
Authority: O.C.G.A. §§ 50-13-3, 43-25A-6.
History. Original Rule entitled "Restoration of Licensure" adopted. F. Feb. 10, 2016; eff. Mar. 1, 2016.

Rule 590-11-1-.04. Inactive Status.

(1) A currently licensed music therapist who wishes to maintain his or her license but who does not wish to practice music therapy in this State may apply for inactive licensure status by submitting an application for inactive status and paying the required fee. A licensee granted inactive status is exempt from filing a biennial license renewal application and paying a license renewal fee. A licensee who holds an inactive license shall not practice as a music therapist in this State.

(2) A licensee may continue in inactive status may continue for a period up to two years.

(3) An inactive license may be changed to active status by filing an application for restoration, complying with restoration requirements, and paying a restoration fee.

(4) An inactive license may not be restored after two years, but the person may apply as a new applicant.

Cite as Ga. Comp. R. & Regs. R. 590-11-1-.04
Authority: O.C.G.A. §§ 50-13-3, 43-25A-1, 43-25A-6.
History. Original Rule entitled "Inactive Status" adopted. F. Feb. 10, 2016; eff. Mar. 1, 2016.

Rule 590-11-1-.05. Continuing Education.

(1) Licensees shall produce evidence of completion of forty (40) hours of continuing education completed within the two year renewal period.

(2) Continuing education courses must be approved by the Certification Board of Music Therapists or any successor organization.

Cite as Ga. Comp. R. & Regs. R. 590-11-1-.05
Authority: O.C.G.A. §§ 50-13-3, 43-25A-1, 43-25A-6.
History. Original Rule entitled "Continuing Education" adopted. F. Feb. 10, 2016; eff. Mar. 1, 2016.

Chapter 590-12. Lactation Consultants.

Subject 590-12-1. LACTATION CONSULTANTS.

Rule 590-12-1-.01. Application for Licensure.

(1) Applicants for licensure as a lactation consultant must submit the following:

(a) A completed application, on the appropriate form, accompanied by the required fee;

(b) Completed information and forms needed to submit the results of a fingerprint background check as required by O.C.G.A. § 43-22A-7(3);

(c) Verification of certification as an International Board Certified Lactation Consultant from the International Board of Lactation Consultant Examiners or its successor organization;

(d) Secure and verifiable documentation of United States citizenship or lawful presence in the United States as required by Georgia law;

(e) Any additional information requested by the Secretary of State to establish eligibility.

(2) An application is active for one year, after which a new application and fee are required.

Cite as Ga. Comp. R. & Regs. R. 590-12-1-.01
Authority: O.C.G.A. § 43-22A-7.
History. Original Rule entitled "Application for Licensure" adopted. F. Nov. 29, 2017; eff. Dec. 19, 2017.

Rule 590-12-1-.02. Licensure Renewal.

(1) Licenses shall expire on March 31 of even years. Completed license renewal applications, accompanied by the appropriate fee and any other required documentation shall be submitted by the posted deadline.

(2) License renewal applications submitted or postmarked after the renewal deadline will be void and the license will be forfeited.

Cite as Ga. Comp. R. & Regs. R. 590-12-1-.02
Authority: O.C.G.A. § 43-22A-9.
History. Original Rule entitled "Licensure Renewal" adopted. F. Nov. 29, 2017; eff. Dec. 19, 2017.

Rule 590-12-1-.03. Inactive Status.

(1) A currently licensed lactation consultant who wishes to maintain his or her license but who does not wish to practice as a lactation consultant in this State may apply for inactive licensure status by submitting an application for inactive status and paying the required fee. A licensee granted inactive status is exempt from filing a biennial license renewal

application and paying a license renewal fee. A licensee who holds an inactive license shall not practice as a lactation consultant in this State.

(2) An inactive license may be changed to active status by filing an application for licensure and complying with all licensure requirements.

Cite as Ga. Comp. R. & Regs. R. 590-12-1-.03
Authority: O.C.G.A. § 43-22A-9.
History. Original Rule entitled "Inactive Status" adopted. F. Nov. 29, 2017; eff. Dec. 19, 2017.