

Locke Lord QuickStudy: New York LLC Transparency Act

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On December 21, 2024, amendments to the New York Limited Liability Company Law^[1] will take effect requiring domestic New York LLCs and foreign LLCs qualified to do business in New York to disclose information concerning their “beneficial owners” to the New York Secretary of State (the “NY SOS”). This new law (the “NY LLCTA”)^[2] only applies to limited liability companies and not to corporations, limited partnerships or business trusts. Pursuant to a Chapter amendment to be adopted by the New York legislature because of objections by the Governor to the original chapter as adopted by the legislature, by agreement between the Governor and the leaders of the legislature^[3], the original bill, as adopted, will be amended to provide that the database of “beneficial owners” will not be publicly available. It will be available to law enforcement and governmental authorities.

Under the NY LLCTA, limited liability companies that are exempt from filing under the federal Corporate Transparency Act (“CTA”)^[4] administered by the Financial Crimes Enforcement Network (“FinCEN”) will also be exempt from filing with the NY SOS under the NY LLCTA. However, those entities that claim to be exempt will need to file an annual notice claiming the exemption with the NY SOS specifying the exemption claimed. No such filing is required under the CTA to claim an exemption.

Owners of 25% or more of the equity or profits interests in an LLC required to file under the NY LLCTA as well as senior executives and persons exercising substantial influence or control over the LLC are “Beneficial Owners” for purposes of the NY LLCTA to the same extent that they are “beneficial owners” under the CTA.

As part of its report to the NY SOS, the reporting company will need to file personally identifiable information concerning each of its Beneficial Owners with the NY SOS once regulations and procedures are established by the NY SOS for this purpose. At present the use of FinCEN identifiers are not permitted to be used in place of disclosure of personally identifiable information for each Beneficial Owner on a NY SOS report. While the CTA requires residential street address for Beneficial Owners, the NY LLCTA requires business addresses.^[5] A copy of the government issued ID document filed with FinCEN under the CTA for each Beneficial Owner need not be filed with the NY SOS for purposes of the NY LLCTA.

For LLCs in existence before December 31, 2024, the LLC must file reports with the NY SOS on or before January 1, 2025. LLCs that are formed or registered in New York as foreign LLCs after December 21, 2024, will be required to file Beneficial Ownership information with the NY SOS at the time the Articles of Formation or the application for authority is filed with the NY SOS. Any updates to filed Beneficial Ownership information or a claim of exemption, as well as any changes in beneficial ownership, must be reported to the NY SOS within 90 days from the date of change under rules and procedures to be adopted by the NY SOS.

Failures to file Beneficial Ownership information or a claim for exemption under the NY LLCTA will result in a notation as the LLC being “past due” or “delinquent” on the NY SOS records and a civil penalty of \$250 may be assessed.

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[1] Section two of Chapter 995-B amends section 102 of the New York Limited Liability Company Law (the “LLCL”) to define beneficial owner, initial report, reporting company and exempt company; Section three amends section 203 of the LLCL to require that LLCs include an initial report, including a list of beneficial owners, with the

documents submitted to the Department of State when organizing an LLC in New York State. Exempt companies must indicate which exemption(s) they are claiming

against their obligation to file such initial report. Section four amends section 211 of the LLCL to require that updates and corrections to information required in an initial

report are filed with the NY SOS. Section five adds a new section 215 to the LLCL, enumerating the information that must be disclosed by an LLC when identifying one of

and eight of Chapter 995-B make the same changes as sections three, four, and five above, but as applied to foreign limited liability companies qualified to do business in New York, by amending sections 802 and 804 of the LLCL and adding a new section, 810. The Secretary of State is also required to establish rules and regulations to allow beneficial owners to apply for confidentiality waivers.

[2] Senate Bill 995-B and Assembly Bill 3484 (Chapter 772)

[3] Governor Kathy Hochul, N.Y. Approval Memo. 91, Chap. 772, filed with Senate Bill 995-B (Dec. 22, 2023)

[4] See [Small Entity Compliance Guide](#) and [Beneficial Ownership Information Reporting](#)

[5] These differences in the information to be filed under the CTA and NY LLCTA may negate the ability of a reporting company to file an exact copy of the FinCEN

beneficial ownership report as a compliant filing under the NY LLCTA.

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