

COMMON REASONS FOR REJECTION OF CERTIFICATE OF PUBLICATION BY THE NEW YORK DEPARTMENT OF STATE

➤ Wrong signatory on the Certificate of Publication:

Only those noted below will be accepted (titles such as Vice President, General Counsel are *not* permitted by statute):

- **LLCs:** Member, Manager, Authorized Person or Attorney-in-Fact*
- **LPs:** General Partner or Attorney-in-Fact*
- **LLPs:** Partner or Attorney-in-Fact*

We were recently advised that any Certificate of Publication signed by an **Attorney-in-Fact must specify on whose behalf the document is being signed and the capacity of that individual. The statutes require that a Power of Attorney be retained among the records of the alternative business entity.*

➤ Incorrect information in the Certificate of Publication:

The state will reject when information in the Certificate, such as the entity's formation date, is incorrect. And, while not a reason for rejection, another common mistake we've seen is the failure to include the **street address**, if any, of the principal business location of the entity. (The prior requirements only called for the county to be included and we are finding the street address is often overlooked.)

Keep in mind that the authorized person signing the certificate is signing under penalties of perjury. It is, therefore, important to review the content of the Notice of Publication, Affidavits and Certificate of Publication for accuracy prior to filing.

➤ Legibility:

The Affidavits and Certificates of Publication **must** be legible. We suggest that the Certificate of Publication be typewritten or clearly handwritten. Note that we have seen the Department of State reject because the signature of the publisher or notary was so light as to be deemed illegible.

➤ Newspaper Errors:

While there has been some improvement, we continue to see that some newspapers are not following the new statutory requirements for the format/wording of the affidavits of publication, which has caused delays/rejection of the Certificate of Publication by the Department of State. NCR's staff is familiar with the requirements and has been working these problems out with the newspapers prior to submitting clients' Certificates of Publication to the Department of State.

To download NCR's chart comparing the current and previous New York publication requirements, [click here](#). To download NCR's memo summarizing the current publication requirements (includes links to the text of the new provisions), [click here](#).

Please note that this memo is for information purposes only and is not to be taken as legal advice.
